PRIOR PROVISIONS

Another section 121 of act June 30, 1948, was renumbered section 122 and is classified to section 1274 of this title.

AMENDMENTS

2006—Subsec. (f)(1). Pub. L. 109–392 substituted ''2011'' for ''2005''.

MANAGEMENT CONFERENCE

Pub. L. 110–114, title V, § 5084, Nov. 8, 2007, 121 Stat. 1228, provided that: ''For purposes of carrying out section 121 of the Federal Water Pollution Control Act (33 U.S.C. 1273), the Lake Pontchartrain, Louisiana, basin stakeholders conference convened by the Environmental Protection Agency, National Oceanic and Atmospheric Administration, and United States Geological Survey on February 25, 2002, shall be treated as being a management conference convened under section 320 of such Act (33 U.S.C. 1330).''

§ 1274. Wet weather watershed pilot projects

(a) In general

The Administrator, in coordination with the States, may provide technical assistance and grants for treatment works to carry out pilot projects relating to the following areas of wet weather discharge control:

(1) Watershed management of wet weather discharges

The management of municipal combined sewer overflows, sanitary sewer overflows, and stormwater discharges, on an integrated watershed or subwatershed basis for the purpose of demonstrating the effectiveness of a unified wet weather approach.

(2) Stormwater best management practices

The control of pollutants from municipal separate storm sewer systems for the purpose of demonstrating and determining controls that are cost-effective and that use innovative technologies in reducing such pollutants from stormwater discharges.

(b) Administration

The Administrator, in coordination with the States, shall provide municipalities participating in a pilot project under this section the ability to engage in innovative practices, including the ability to unify separate wet weather control efforts under a single permit.

(c) Funding

(1) In general

There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002, $15,000,000 for fiscal year 2003, and $20,000,000 for fiscal year 2004. Such funds shall remain available until expended.

(2) Stormwater

The Administrator shall make available not less than 20 percent of amounts appropriated for a fiscal year pursuant to this subsection to carry out the purposes of subsection (a)(2) of this section.

(3) Administrative expenses

The Administrator may retain not to exceed 4 percent of any amounts appropriated for a fiscal year pursuant to this subsection for the reasonable and necessary costs of administering this section.

(d) Report to Congress

Not later than 5 years after December 21, 2000, the Administrator shall transmit to Congress a report on the results of the pilot projects conducted under this section and their possible application nationwide.

(June 30, 1948, ch. 758, title I, § 122, formerly § 121, as added Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 112(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–225; renumbered § 122, Pub. L. 109–392, § 2, Dec. 12, 2006, 120 Stat. 2703.)

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

§ 1281. Congressional declaration of purpose

(a) Development and implementation of waste treatment management plans and practices

It is the purpose of this subchapter to require and to assist the development and implementation of waste treatment management plans and practices which will achieve the goals of this chapter.

(b) Application of technology: confined disposal of pollutants; consideration of advanced techniques

Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment techniques.

(c) Waste treatment management area and scope

To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

(d) Waste treatment management construction of revenue producing facilities

The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

(2) the confined and contained disposal of pollutants not recycled;

(3) the reclamation of wastewater; and

(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

(e) Waste treatment management integration of facilities

The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste

heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

(f) Waste treatment management "open space" and recreational considerations

The Administrator shall encourage waste treatment management which combines ''open space'' and recreational considerations with such management.

(g) Grants to construct publicly owned treatment works

(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works. On and after October 1, 1984, grants under this subchapter shall be made only for projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. Notwithstanding the preceding sentences, the Administrator may make grants on and after October 1, 1984, for (A) any project within the definition set forth in section 1292(2) of this title, other than for a project referred to in the preceding sentence, and (B) any purpose for which a grant may be made under sections[1] 1329(h) and (i) of this title (including any innovative and alternative approaches for the control of nonpoint sources of pollution), except that not more than 20 per centum (as determined by the Governor of the State) of the amount allotted to a State under section 1285 of this title for any fiscal year shall be obligated in such State under authority of this sentence.

(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this subchapter; and

(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after October 18, 1972.

(5) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial waste (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution, have been fully studied and evaluated by the applicant taking into account subsection (d) of this section and taking into account and allowing to the extent practicable the more efficient use of energy and resources.

(6) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that the applicant has analyzed the potential recreation and open space opportunities in the planning of the proposed treatment works.

(h) Grants to construct privately owned treatment works

A grant may be made under this section to construct a privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to, and inhabited on, December 27, 1977, where the Administrator finds that—

(1) a public body otherwise eligible for a grant under subsection (g) of this section has applied on behalf of a number of such units and certified that public ownership of such works is not feasible;

(2) such public body has entered into an agreement with the Administrator which guarantees that such treatment works will be properly operated and maintained and will comply with all other requirements of section 1284 of this title and includes a system of charges to assure that each recipient of waste treatment services under such a grant will pay

[1] So in original. Probably should be ''section''.

its proportionate share of the cost of operation and maintenance (including replacement); and

(3) the total cost and environmental impact of providing waste treatment services to such residences or commercial establishments will be less than the cost of providing a system of collection and central treatment of such wastes.

(i) Waste treatment management methods, processes, and techniques to reduce energy requirements

The Administrator shall encourage waste treatment management methods, processes, and techniques which will reduce total energy requirements.

(j) Grants for treatment works utilizing processes and techniques of guidelines under section 1314(d)(3) of this title

The Administrator is authorized to make a grant for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title, if the Administrator determines it is in the public interest and if in the cost effectiveness study made of the construction grant application for the purpose of evaluating alternative treatment works, the life cycle cost of the treatment works for which the grant is to be made does not exceed the life cycle cost of the most cost effective alternative by more than 15 per centum.

(k) Limitation on use of grants for publicly owned treatment works

No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980. This subsection shall not be in effect after November 15, 1981.

(*l*) Grants for facility plans, or plans, specifications, and estimates for proposed project for construction of treatment works; limitations, allotments, advances, etc.

(1) After December 29, 1981, Federal grants shall not be made for the purpose of providing assistance solely for facility plans, or plans, specifications, and estimates for any proposed project for the construction of treatment works. In the event that the proposed project receives a grant under this section for construction, the Administrator shall make an allowance in such grant for non-Federal funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share under section 1282(a) of this title, based on the percentage of total project costs which the Administrator determines is the general experience for such projects.

(2)(A) Each State shall use a portion of the funds allotted to such State each fiscal year, but not to exceed 10 per centum of such funds, to advance to potential grant applicants under this subchapter the costs of facility planning or the preparation of plans, specifications, and estimates.

(B) Such an advance shall be limited to the allowance for such costs which the Administrator establishes under paragraph (1) of this subsection, and shall be provided only to a potential grant applicant which is a small community and which in the judgment of the State would otherwise be unable to prepare a request for a grant for construction costs under this section.

(C) In the event a grant for construction costs is made under this section for a project for which an advance has been made under this paragraph, the Administrator shall reduce the amount of such grant by the allowance established under paragraph (1) of this subsection. In the event no such grant is made, the State is authorized to seek repayment of such advance on such terms and conditions as it may determine.

(m) Grants for State of California projects

(1) Notwithstanding any other provisions of this subchapter, the Administrator is authorized to make a grant from any funds otherwise allotted to the State of California under section 1285 of this title to the project (and in the amount) specified in Order WQG 81–1 of the California State Water Resources Control Board.

(2) Notwithstanding any other provision of this chapter, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of Eureka, California, in connection with project numbered C–06–2772, for the purchase of one hundred and thirty-nine acres of property as environmental mitigation for siting of the proposed treatment plant.

(3) Notwithstanding any other provision of this chapter, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of San Diego, California, in connection with that city's aquaculture sewage process (total resources recovery system) as an innovative and alternative waste treatment process.

(n) Water quality problems; funds, scope, etc.

(1) On and after October 1, 1984, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 1285 of this title to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.

(2) Beginning fiscal year 1983, the Administrator shall have available $200,000,000 per fiscal year in addition to those funds authorized in section 1287 of this title to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this sub-

section, upon the request of and demonstration of water quality benefits by the Governor of an affected State.

(*o*) Capital financing plan

The Administrator shall encourage and assist applicants for grant assistance under this subchapter to develop and file with the Administrator a capital financing plan which, at a minimum—

(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;

(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and

(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.

(p) Time limit on resolving certain disputes

In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this subchapter and a party to such dispute files an appeal with the Administrator under this subchapter for resolution of such dispute, the Administrator shall make a final decision on such appeal within 90 days of the filing of such appeal.

(June 30, 1948, ch. 758, title II, § 201, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 833; amended Pub. L. 95–217, §§ 12–16, Dec. 27, 1977, 91 Stat. 1569, 1570; Pub. L. 96–483, §§ 2(d), 3, Oct. 21, 1980, 94 Stat. 2361; Pub. L. 97–117, §§ 2(a), 3(a), 4–6, 10(c), Dec. 29, 1981, 95 Stat. 1623–1626; Pub. L. 100–4, title II, § 201, title III, § 316(c), Feb. 4, 1987, 101 Stat. 15, 60.)

AMENDMENTS

1987—Subsec. (g)(1). Pub. L. 100–4, § 316(c), substituted ''sentences, the Administrator'' for ''sentence, the Administrator'' and inserted ''(A)'' after ''October 1, 1984, for'' and ''and (B) any purpose for which a grant may be made under sections 1329(h) and (i) of this title (including any innovative and alternative approaches for the control of nonpoint sources of pollution),'' before ''except that''.

Subsec. (p). Pub. L. 100–4, § 201, added subsec. (p).

1981—Subsec. (g)(1). Pub. L. 97–117, § 2(a), inserted provisions restricting, on or after Oct. 1, 1984, the categories of projects eligible for grants under this subchapter and providing an exception to the restriction for projects, other than specified projects, within the definition set forth in section 1292(2) of this title, but limiting such exception to not more than 20 per centum, as determined by the Governor of the State, of the amount allotted to a State under section 1285 of this title for any fiscal year.

Subsec. (k). Pub. L. 97–117, § 10(c), inserted provision that subsection not be in effect after Nov. 15, 1981.

Subsec. (*l*). Pub. L. 97–117, § 3(a), added subsec. (*l*).

Subsec. (m). Pub. L. 97–117, § 4, added subsec. (m).

Subsec. (n). Pub. L. 97–117, § 5, added subsec. (n).

Subsec. (*o*). Pub. L. 97–117, § 6, added subsec. (*o*).

1980—Subsec. (h). Pub. L. 96–483, § 2(d), struck out text following par. (3), relating to payment to the United States by commercial users of that portion of the cost of construction applicable to treatment of commercial wastes to the extent attributable to the Federal share of the cost of construction.

Subsec. (k). Pub. L. 96–483, § 3, added subsec. (k).

1977—Subsec. (g)(5). Pub. L. 95–217, § 12, added par. (5).

Subsec. (g)(6). Pub. L. 95–217, § 13, added par. (6).

Subsec. (h). Pub. L. 95–217, § 14, added subsec. (h).

Subsec. (i). Pub. L. 95–217, § 15, added subsec. (i).

Subsec. (j). Pub. L. 95–217, § 16, added subsec. (j).

EFFECTIVE DATE OF 1980 AMENDMENT

Section 2(g) of Pub. L. 96–483 provided that: ''The amendments made by this section [amending sections 1281, 1284, and 1293 of this title, enacting provisions set out as notes under section 1284 of this title, and amending provisions set out as a note under section 1284 of this title] shall take effect on December 27, 1977.''

ENVIRONMENTAL PROTECTION AGENCY STATE AND TRIBAL ASSISTANCE GRANTS

Pub. L. 105–174, title III, May 1, 1998, 112 Stat. 92, provided that: ''Notwithstanding any other provision of law, eligible recipients of the funds appropriated to the Environmental Protection Agency in the State and Tribal Assistance Grants account since fiscal year 1997 and hereafter for multi-media or single media grants, other than Performance Partnership Grants authorized pursuant to Public Law 104–134 and Public Law 105–65 [see Grants to Indian Tribes for Pollution Prevention, Control, and Abatement notes set out below], for pollution prevention, control, and abatement and related activities have been and shall be those entities eligible for grants under the Agency's organic statutes.''

PRIVATIZATION OF INFRASTRUCTURE ASSETS

Pub. L. 104–303, title V, § 586, Oct. 12, 1996, 110 Stat. 3791, provided that:

''(a) IN GENERAL.—Notwithstanding the provisions of title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.), Executive Order 12803 [5 U.S.C. 601 note], or any other law or authority, an entity that received Federal grant assistance for an infrastructure asset under the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.] shall not be required to repay any portion of the grant upon the lease or concession of the asset only if—

''(1) ownership of the asset remains with the entity that received the grant; and

''(2) the Administrator of the Environmental Protection Agency determines that the lease or concession furthers the purposes of such Act and approves the lease or concession.

''(b) LIMITATION.—The Administrator shall not approve a total of more than 5 leases and concessions under this section.''

GRANTS TO STATES TO ADMINISTER COMPLETION AND CLOSEOUT OF CONSTRUCTION GRANTS PROGRAM

Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2912, provided in part: ''That notwithstanding any other provision of law, beginning in fiscal year 1997 the Administrator may make grants to States, from funds available for obligation in the State under title II of the Federal Water Pollution Control Act [33 U.S.C. 1281 et seq.], as amended, for administering the completion and closeout of the State's construction grants program, based on a budget annually negotiated with the State''.

WASTEWATER ASSISTANCE TO COLONIAS

Pub. L. 104–182, title III, § 307, Aug. 6, 1996, 110 Stat. 1688, provided that:

''(a) DEFINITIONS.—As used in this section:

''(1) BORDER STATE.—The term 'border State' means Arizona, California, New Mexico, and Texas.

''(2) ELIGIBLE COMMUNITY.—The term 'eligible community' means a low-income community with economic hardship that—

''(A) is commonly referred to as a colonia;

''(B) is located along the United States-Mexico border (generally in an unincorporated area); and

''(C) lacks basic sanitation facilities such as household plumbing or a proper sewage disposal system.

''(3) TREATMENT WORKS.—The term 'treatment works' has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

''(b) GRANTS FOR WASTEWATER ASSISTANCE.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities for the planning, design, and construction or improvement of sewers, treatment works, and appropriate connections for wastewater treatment.

''(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable treatment works for wastewater.

''(d) COST SHARING.—The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.''

GRANTS TO INDIAN TRIBES FOR POLLUTION PREVENTION, CONTROL AND ABATEMENT

Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1373, provided in part that: ''$745,000,000 for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities pursuant to the provisions set forth under this heading in Public Law 104–134 [see below], provided that eligible recipients of these funds and the funds made available for this purpose since fiscal year 1996 and hereafter include States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies, as provided in authorizing statutes, subject to such terms and conditions as the Administrator shall establish, and for making grants under section 103 of the Clean Air Act [42 U.S.C. 7403] for particulate matter monitoring and data collection activities''.

Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1374, provided in part: ''That, hereafter from funds appropriated under this heading [''ENVIRONMENTAL PROTECTION AGENCY'' and ''STATE AND TRIBAL ASSISTANCE GRANTS''], the Administrator is authorized to make grants to federally recognized Indian governments for the development of multi-media environmental programs: *Provided further*, That, hereafter, the funds available under this heading for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities may also be used for the direct implementation by the Federal Government of a program required by law in the absence of an acceptable State or tribal program''.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2912.

Pub. L. 104–134, title I, §101(e) [title III], Apr. 26, 1996, 110 Stat. 1321–257, 1321–299, renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–327, title III, Sept. 28, 1994, 108 Stat. 2320.

Pub. L. 103–124, title III, Oct. 28, 1993, 107 Stat. 1293.

Pub. L. 102–389, title III, Oct. 6, 1992, 106 Stat. 1597.

Pub. L. 102–139, title III, Oct. 28, 1991, 105 Stat. 762.

Pub. L. 101–507, title III, Nov. 5, 1990, 104 Stat. 1372.

Pub. L. 104–134, title I, §101(e) [title III], Apr. 26, 1996, 110 Stat. 1321–257, 1321–299; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: ''That beginning in fiscal year 1996 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator is authorized to make grants annually from funds appropriated under this heading [''ENVIRONMENTAL PROTECTION AGENCY'' and ''STATE AND TRIBAL ASSISTANCE GRANTS''], subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multimedia or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe''.

STATE MANAGEMENT OF CONSTRUCTION GRANT ACTIVITIES

Pub. L. 104–134, title I, §101(e) [title III], Apr. 26, 1996, 110 Stat. 1321–257, 1321–299; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: ''That of the funds appropriated in the Construction Grants and Water Infrastructure/State Revolving Funds accounts since the appropriation for the fiscal year ending September 30, 1992, and hereafter, for making grants for wastewater treatment works construction projects, portions may be provided by the recipients to States for managing construction grant activities, on condition that the States agree to reimburse the recipients from State funding sources''.

GRANTS TO TRUST TERRITORY OF THE PACIFIC ISLANDS, AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS, AND VIRGIN ISLANDS; WAIVER OF COLLECTOR SEWERS LIMITATION

Pub. L. 99–396, §12(b), Aug. 27, 1986, 100 Stat. 841, provided that: ''In awarding grants to the Trust Territory of the Pacific Islands, American Samoa, Guam, the Northern Mariana Islands and the Virgin Islands under section 201(g)(1) of the Clean Water Act (33 U.S.C. 1251 et seq.) [subsec. (g)(1) of this section], the Administrator of the Environmental Protection Agency may waive limitations regarding grant eligibility for sewerage facilities and related appurtenances, insofar as such limitations relate to collector sewers, based upon a determination that applying such limitations could hinder the alleviation of threats to public health and water quality. In making such a determination, the Administrator shall take into consideration the public health and water quality benefits to be derived and the availability of alternate funding sources. The Administrator shall not award grants under this section for the operation and maintenance of sewerage facilities, for construction of facilities which are not an essential component of the sewerage facilities, or any other activities or facilities which are not concerned with the management of wastewater to alleviate threats to public health and water quality.'' [For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

ENVIRONMENTAL FINANCING AUTHORITY

Section 12 of Pub. L. 92–500, as amended by Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, provided that:

''(a) [Short Title] This section may be cited as the Environmental Financing Act of 1972.

''(b) [Establishment] There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

''(c) [Congressional Declaration of Purpose] The purpose of this section is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

''(d) [Board of Directors] (1) The Authority shall have a Board of Directors consisting of five persons, one of

whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

''(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

''(e) [Purchase of State and Local Obligations] (1) Until July 1, 1975, the Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act [this chapter].

''(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act [this chapter], and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

''(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section [Oct. 18, 1972].

''(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

''(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

''(f) [Initial Capital] To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection.

''(g) [Issuance of Obligations] (1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

''(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitations, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States. (As amended Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067.)

''(h) [Interest Differential] The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

''(i) [Powers] The Authority shall have power—

''(1) to sue and be sued, complain and defend, in its corporate name;

''(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

''(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

''(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

''(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

''(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority;

''(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

''(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

''(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

''(j) [Tax Exemption, Exemptions] The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be sub-

ject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

''(k) [Nature of Obligations] All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

''(*l*) [Preparation of Obligations by Secretary of the Treasury] In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

''(m) [Annual Report to Congress] The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

''(n) [Subsec. (n) amended section 24 of Title 12, Banks and Banking, and is not set out herein.]

''(*o*) [Financial Controls] The budget and audit provisions of chapter 91 of title 31 shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations. (As amended Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067.)

''(p) [Subsec. (p) amended section 711 of former Title 31, Money and Finance, and is not set out herein.]''

§ 1281a. Total treatment system funding

Notwithstanding any other provision of law, in any case where the Administrator of the Environmental Protection Agency finds that the total of all grants made under section 1281 of this title for the same treatment works exceeds the actual construction costs for such treatment works (as defined in this chapter) such excess amount shall be a grant of the Federal share (as defined in this chapter) of the cost of construction of a sewage collection system if—

(1) such sewage collection system was constructed as part of the same total treatment system as the treatment works for which such grants under section 1281 of this title were approved, and

(2) an application for assistance for the construction of such sewage collection system was filed in accordance with section 3102 of title 42 before all such grants under section 1281 of this title were made and such grant under section 3102 of title 42 could not be approved due to lack of funding under such section 3102 of title 42.

The total of all grants for sewage collection systems made under this section shall not exceed $2,800,000.

(Pub. L. 95–217, §78, Dec. 27, 1977, 91 Stat. 1611.)

REFERENCES IN TEXT

Section 3102 of title 42, referred to in par. (2), was omitted from the Code pursuant to section 5316 of Title 42, The Public Health and Welfare, which terminated the authority to make grants or loans under that section after Jan. 1, 1975.

CODIFICATION

Section was enacted as part of the Clean Water Act of 1977, Pub. L. 95–217, and not as part of the Federal Water Pollution Control Act which comprises this chapter.

§ 1281b. Availability of Farmers Home Administration funds for non-Federal share

Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration to any political subdivision of a State may be used to provide the non-Federal share of the cost of any construction project carried out under section 1281 of this title.

(Pub. L. 100–4, title II, §202(f), Feb. 4, 1987, 101 Stat. 16.)

CODIFICATION

Section was enacted as part of the Water Quality Act of 1987, and not as part of the Federal Water Pollution Control Act which comprises this chapter.

§ 1282. Federal share

(a) Amount of grants for treatment works

(1) The amount of any grant for treatment works made under this chapter from funds authorized for any fiscal year beginning after June 30, 1971, and ending before October 1, 1984, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator), and for any fiscal year beginning on or after October 1, 1984, shall be 55 per centum of the cost of construction thereof (as approved by the Administrator), unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after October 21, 1980, the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 1285 of this title, the need for assistance under this subchapter in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State. Any grant (other than for reimbursement) made prior to October 18, 1972, from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section. Notwithstanding the first sentence of this paragraph, in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors or a project for infiltration-in-flow correction has received a grant for erection, building, acquisition, alteration, remodeling, improvement, extension, or correction before October 1, 1984, all

segments and phases of such facility, interceptors, and project for infiltration-in-flow correction shall be eligible for grants at 75 per centum of the cost of construction thereof for any grant made pursuant to a State obligation which obligation occurred before October 1, 1990. Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this subchapter has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof. Notwithstanding the first sentence of this paragraph, in the case of the Wyoming Valley Sanitary Authority project mandated by judicial order under a proceeding begun prior to October 1, 1984, and a project for wastewater treatment for Altoona, Pennsylvania, such projects shall be eligible for grants at 75 percent of the cost of construction thereof.

(2) The amount of any grant made after September 30, 1978, and before October 1, 1981, for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 1281(g)(5) of this title shall be 85 per centum of the cost of construction thereof, unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection. The amount of any grant made after September 30, 1981, for any eligible treatment works or unit processes and techniques thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 1281(g)(5) of this title shall be a percentage of the cost of construction thereof equal to 20 per centum greater than the percentage in effect under paragraph (1) of this subsection for such works or unit processes and techniques, but in no event greater than 85 per centum of the cost of construction thereof. No grant shall be made under this paragraph for construction of a treatment works in any State unless the proportion of the State contribution to the non-Federal share of construction costs for all treatment works in such State receiving a grant under this paragraph is the same as or greater than the proportion of the State contribution (if any) to the non-Federal share of construction costs for all treatment works receiving grants in such State under paragraph (1) of this subsection.

(3) In addition to any grant made pursuant to paragraph (2) of this subsection, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of any facilities constructed with a grant made pursuant to paragraph (2) if the Administrator finds that such facilities have not met design performance specifications unless such failure is attributable to negligence on the part of any person and if such failure has significantly increased capital or operating and maintenance expenditures. In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.

(4) For the purposes of this section, the term ''eligible treatment works'' means those treatment works in each State which meet the requirements of section 1281(g)(5) of this title and which can be fully funded from funds available for such purpose in such State.

(b) Amount of grants for construction of treatment works not commenced prior to July 1, 1971

The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 30, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

(2) the State water pollution control agency or other appropriate State authority certifies that the quantity of available ground water will be insufficient, inadequate, or unsuitable for public use, including the ecological preservation and recreational use of surface water bodies, unless effluents from publicly-owned treatment works after adequate treatment are returned to the ground water consistent with acceptable technological standards.

(c) Availability of sums allotted to Puerto Rico

Notwithstanding any other provision of law, sums allotted to the Commonwealth of Puerto Rico under section 1285 of this title for fiscal year 1981 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. Such sums and any unobligated funds available to Puerto Rico from allotments for fiscal years ending prior to October 1, 1981, shall be available for obligation by the Administrator of the Environmental Protection Agency only to fund the following systems: Aguadilla, Arecibo, Mayaguez, Carolina, and Camuy Hatillo. These funds may be used by the commonwealth of Puerto Rico to fund the non-Federal share of the costs of such projects. To the extent that these funds are used to pay the non-Federal share, the

Commonwealth of Puerto Rico shall repay to the Environmental Protection Agency such amounts on terms and conditions developed and approved by the Administrator in consultation with the Governor of the Commonwealth of Puerto Rico. Agreement on such terms and conditions, including the payment of interest to be determined by the Secretary of the Treasury, shall be reached prior to the use of these funds for the Commonwealth's non-Federal share. No Federal funds awarded under this provision shall be used to replace local governments funds previously expended on these projects.

(June 30, 1948, ch. 758, title II, §202, as added Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 834; amended Pub. L. 95–217, §17, Dec. 27, 1977, 91 Stat. 1571; Pub. L. 96–483, §9, Oct. 21, 1980, 94 Stat. 2362; Pub. L. 97–117, §§7, 8(a), (b), Dec. 29, 1981, 95 Stat. 1625; Pub. L. 97–357, title V, §501, Oct. 19, 1982, 96 Stat. 1712; Pub. L. 100–4, title II, §202(a)–(d), Feb. 4, 1987, 101 Stat. 15, 16.)

AMENDMENTS

1987—Subsec. (a)(1). Pub. L. 100–4, §202(a), inserted ''for any grant made pursuant to a State obligation which obligation occurred before October 1, 1990'' before period at end of last sentence.

Pub. L. 100–4, §202(b), inserted at end ''Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this subchapter has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof.''

Pub. L. 100–4, §202(c), inserted at end ''Notwithstanding the first sentence of this paragraph, in the case of the Wyoming Valley Sanitary Authority project mandated by judicial order under a proceeding begun prior to October 1, 1984, and a project for wastewater treatment for Altoona, Pennsylvania, such projects shall be eligible for grants at 75 percent of the cost of construction thereof.''

Subsec. (a)(3). Pub. L. 100–4, §202(d), inserted at end ''In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.''

1982—Subsec. (c). Pub. L. 97–357 added subsec. (c).

1981—Subsec. (a)(1). Pub. L. 97–117, §7, inserted ''and ending before October 30, 1984,'' after ''June 30, 1971,'' and ''and for any fiscal year beginning on or after October 1, 1984, shall be 55 per centum of the cost of construction thereof (as approved by the Administrator),'' after ''(as approved by the Administrator),'' and provision that notwithstanding first sentence of this paragraph, in any case where primary, secondary, or advanced waste treatment facility or its related interceptors or a project for infiltration-in-flow correction has received a grant for building, acquisition, etc., before Oct. 1, 1984, all segments and phases be eligible for grants at 75 per centum of the cost of construction.

Subsec. (a)(2). Pub. L. 97–117, §8(a), inserted provision that the amount of any grant made after Sept. 30, 1981, for any eligible treatment works or unit processes or techniques, utilizing innovative or alternative wastewater treatment processes or techniques referred to in section 1281(g)(5) of this title be a percentage of the cost of construction equal to 20 per centum greater than the percentage in effect under par. (1) of this subsection, but in no event greater than 85 per centum of the cost of construction.

Subsec. (a)(4). Pub. L. 97–117, §8(b), struck out ''in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981'' after ''purpose in such State'' and provision that excluded from term ''eligible treatment works'' collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.

1980—Subsec. (a)(1). Pub. L. 96–483, §9(a), inserted provisions relating to modification to a lower percentage rate by the Governor of the State and issuance of guidelines by the Administrator for the concurrence in any such modification.

Subsec. (a)(2). Pub. L. 96–483, §9(b), inserted provision relating to the modification by the Governor of the State to a percentage rate no less than 15 per centum greater than the modified uniform rate in which the Administrator has concurred.

1977—Subsec. (a). Pub. L. 95–217 designated existing provisions as par. (1) and added pars. (2) to (4).

PROMULGATION OF FEDERAL SHARES

Act July 9, 1956, ch. 518, §4, 70 Stat. 507, authorized the Surgeon General to promulgate Federal shares under the Federal Water Pollution Control Grant Program as soon as possible after July 9, 1956, in the manner specified in the Water Pollution Control Act, act June 30, 1948, ch. 758, 62 Stat. 1155, and provided that such shares were to be conclusive for the purposes of section 5 of act June 30, 1948.

§ 1283. Plans, specifications, estimates, and payments

(a) Submission; contractual nature of approval by Administrator; agreement on eligible costs; single grant

(1) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 1281(g)(1) of this title from funds allotted to the State under section 1285 of this title and which otherwise meets the requirements of this chapter. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project.

(2) AGREEMENT ON ELIGIBLE COSTS.—

(A) LIMITATION ON MODIFICATIONS.—Before taking final action on any plans, specifications, and estimates submitted under this subsection after the 60th day following February 4, 1987, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not later modify such eligibility determinations unless they are found to have been made in violation of applicable Federal statutes and regulations.

(B) LIMITATION ON EFFECT.—Eligibility determinations under this paragraph shall not preclude the Administrator from auditing a project pursuant to section 1361 of this title, or other authority, or from withholding or recovering Federal funds for costs which are found to be unreasonable, unsupported by adequate documentation, or otherwise unallow-

able under applicable Federal cost principles, or which are incurred on a project which fails to meet the design specifications or effluent limitations contained in the grant agreement and permit pursuant to section 1342 of this title for such project.

(3) In the case of a treatment works that has an estimated total cost of $8,000,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works.

(b) Periodic payments

The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

(c) Final payments

After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

(d) Projects eligible

Nothing in this chapter shall be construed to require, or to authorize the Administrator to require, that grants under this chapter for construction of treatment works be made only for projects which are operable units usable for sewage collection, transportation, storage, waste treatment, or for similar purposes without additional construction.

(e) Technical and legal assistance in administration and enforcement of contracts; intervention in civil actions

At the request of a grantee under this subchapter, the Administrator is authorized to provide technical and legal assistance in the administration and enforcement of any contract in connection with treatment works assisted under this subchapter, and to intervene in any civil action involving the enforcement of such a contract.

(f) Design/build projects

(1) Agreement

Consistent with State law, an applicant who proposes to construct waste water treatment works may enter into an agreement with the Administrator under this subsection providing for the preparation of construction plans and specifications and the erection of such treatment works, in lieu of proceeding under the other provisions of this section.

(2) Limitation on projects

Agreements under this subsection shall be limited to projects under an approved facility plan which projects are—

(A) treatment works that have an estimated total cost of $8,000,000 or less; and

(B) any of the following types of waste water treatment systems: aerated lagoons, trickling filters, stabilization ponds, land application systems, sand filters, and subsurface disposal systems.

(3) Required terms

An agreement entered into under this subsection shall—

(A) set forth an amount agreed to as the maximum Federal contribution to the project, based upon a competitively bid document of basic design data and applicable standard construction specifications and a determination of the federally eligible costs of the project at the applicable Federal share under section 1282 of this title;

(B) set forth dates for the start and completion of construction of the treatment works by the applicant and a schedule of payments of the Federal contribution to the project;

(C) contain assurances by the applicant that (i) engineering and management assistance will be provided to manage the project; (ii) the proposed treatment works will be an operable unit and will meet all the requirements of this subchapter; and (iii) not later than 1 year after the date specified as the date of completion of construction of the treatment works, the treatment works will be operating so as to meet the requirements of any applicable permit for such treatment works under section 1342 of this title;

(D) require the applicant to obtain a bond from the contractor in an amount determined necessary by the Administrator to protect the Federal interest in the project; and

(E) contain such other terms and conditions as are necessary to assure compliance with this subchapter (except as provided in paragraph (4) of this subsection).

(4) Limitation on application

Subsections (a), (b), and (c) of this section shall not apply to grants made pursuant to this subsection.

(5) Reservation to assure compliance

The Administrator shall reserve a portion of the grant to assure contract compliance until final project approval as defined by the Administrator. If the amount agreed to under paragraph (3)(A) exceeds the cost of designing and constructing the treatment works, the Administrator shall reallot the amount of the excess to the State in which such treatment works are located for the fiscal year in which such audit is completed.

(6) Limitation on obligations

The Administrator shall not obligate more than 20 percent of the amount allotted to a State for a fiscal year under section 1285 of this title for grants pursuant to this subsection.

(7) Allowance

The Administrator shall determine an allowance for facilities planning for projects constructed under this subsection in accordance with section 1281(*l*) of this title.

(8) Limitation on Federal contributions

In no event shall the Federal contribution for the cost of preparing construction plans and specifications and the building and erection of treatment works pursuant to this subsection exceed the amount agreed upon under paragraph (3).

(9) Recovery action

In any case in which the recipient of a grant made pursuant to this subsection does not comply with the terms of the agreement entered into under paragraph (3), the Administrator is authorized to take such action as may be necessary to recover the amount of the Federal contribution to the project.

(10) Prevention of double benefits

A recipient of a grant made pursuant to this subsection shall not be eligible for any other grants under this subchapter for the same project.

(June 30, 1948, ch. 758, title II, §203, as added Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 835; amended Pub. L. 93–243, §2, Jan. 2, 1974, 87 Stat. 1069; Pub. L. 95–217, §§18, 19, Dec. 27, 1977, 91 Stat. 1571, 1572; Pub. L. 96–483, §6, Oct. 21, 1980, 94 Stat. 2362; Pub. L. 97–117, §9, Dec. 29, 1981, 95 Stat. 1626; Pub. L. 100–4, title II, §§203, 204, Feb. 4, 1987, 101 Stat. 16, 17.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–4, §203, designated provision relating to submission of plans, specifications, and estimates, and provision relating to contractual nature of approval by Administrator as par. (1), designated provision relating to requirements for awarding single grant for combined Federal share of cost of preparing plans and specifications, and building and erection of treatment works as par. (3), and added par. (2).

Subsec. (f). Pub. L. 100–4, §204, added subsec. (f).

1981—Subsec. (a). Pub. L. 97–117 substituted ''$8,000,000'' for ''$4,000,000'' and struck out provision that, if any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant where the estimated total cost of the treatment works does not exceed $5,000,000.

1980—Subsec. (a). Pub. L. 96–483 substituted ''$4,000,000'' and ''$5,000,000'' for ''$2,000,000'' and ''$3,000,000'', respectively.

1977—Subsec. (a). Pub. L. 95–217, §18, provided that, in the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works, and that, if any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant where the estimated total cost of the treatment works does not exceed $3,000,000.

Subsec. (e). Pub. L. 95–217, §19, added subsec. (e).

1974—Subsec. (d). Pub. L. 93–243 added subsec. (d).

§ 1284. Limitations and conditions

(a) Determinations by Administrator

Before approving grants for any project for any treatment works under section 1281(g)(1) of this title the Administrator shall determine—

(1) that any required areawide waste treatment management plan under section 1288 of this title (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;

(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 1313(e) of this title and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 1315(b) of this title;

(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 1313(e) of this title, except that any priority list developed pursuant to section 1313(e)(3)(H) of this title may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of the cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 1283(a) of this title which utilizes processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title.[1]

(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capac-

[1] So in original. The period probably should be a semicolon.

ity will be required, after taking into account, in accordance with regulations promulgated by the Administrator, efforts to reduce total flow of sewage and unnecessary water consumption. The amount of reserve capacity eligible for a grant under this subchapter shall be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 1288 of this title, or an applicable municipal master plan of development. For the purpose of this paragraph, section 1288 of this title, and any such plan, projected population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate. Beginning October 1, 1984, no grant shall be made under this subchapter to construct that portion of any treatment works providing reserve capacity in excess of existing needs (including existing needs of residential, commercial, industrial, and other users) on the date of approval of a grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of a project for secondary treatment or more stringent treatment or new interceptors and appurtenances, except that in no event shall reserve capacity of a facility and its related interceptors to which this subsection applies be in excess of existing needs on October 1, 1990. In any case in which an applicant proposes to provide reserve capacity greater than that eligible for Federal financial assistance under this subchapter, the incremental costs of the additional reserve capacity shall be paid by the applicant;

(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment. When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a ''brand name or equal'' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.

(b) Additional determinations; issuance of guidelines; approval by Administrator; system of charges

(1) Notwithstanding any other provision of this subchapter, the Administrator shall not approve any grant for any treatment works under section 1281(g)(1) of this title after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share (except as otherwise provided in this paragraph) of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant; and (B) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator. In any case where an applicant which, as of December 27, 1977, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the wastes, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of this paragraph for the residential user class and such small non-residential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate. A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.

(2) The Administrator shall, within one hundred and eighty days after October 18, 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities.

(3) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

(4) A system of charges which meets the requirement of clause (A) of paragraph (1) of this subsection may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment

services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (A) the applicant to establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (B) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the cost of the waste treatment services.

(c) Applicability of reserve capacity restrictions to primary, secondary, or advanced waste treatment facilities or related interceptors

The next to the last sentence of paragraph (5) of subsection (a) of this section shall not apply in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors has received a grant for erection, building, acquisition, alteration, remodeling, improvement, or extension before October 1, 1984, and all segments and phases of such facility and interceptors shall be funded based on a 20-year reserve capacity in the case of such facility and a 20-year reserve capacity in the case of such interceptors, except that, if a grant for such interceptors has been approved prior to December 29, 1981, such interceptors shall be funded based on the approved reserve capacity not to exceed 40 years.

(d) Engineering requirements; certification by owner and operator; contractual assurances, etc.

(1) A grant for the construction of treatment works under this subchapter shall provide that the engineer or engineering firm supervising construction or providing architect engineering services during construction shall continue its relationship to the grant applicant for a period of one year after the completion of construction and initial operation of such treatment works. During such period such engineer or engineering firm shall supervise operation of the treatment works, train operating personnel, and prepare curricula and training material for operating personnel. Costs associated with the implementation of this paragraph shall be eligible for Federal assistance in accordance with this subchapter.

(2) On the date one year after the completion of construction and initial operation of such treatment works, the owner and operator of such treatment works shall certify to the Administrator whether or not such treatment works meet the design specifications and effluent limitations contained in the grant agreement and permit pursuant to section 1342 of this title for such works. If the owner and operator of such treatment works cannot certify that such treatment works meet such design specifications and effluent limitations, any failure to meet such design specifications and effluent limitations shall be corrected in a timely manner, to allow such affirmative certification, at other than Federal expense.

(3) Nothing in this section shall be construed to prohibit a grantee under this subchapter from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party to a contract pertaining to a project assisted under this subchapter, than those provided under this subsection.

(June 30, 1948, ch. 758, title II, §204, as added Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 835; amended Pub. L. 95–217, §§20–24, Dec. 27, 1977, 91 Stat. 1572, 1573; Pub. L. 96–483, §2(a), (b), Oct. 21, 1980, 94 Stat. 2360, 2361; Pub. L. 97–117, §§10(a), (b), 11, 12, Dec. 29, 1981, 95 Stat. 1626, 1627; Pub. L. 100–4, title II, §205(a)–(c), Feb. 4, 1987, 101 Stat. 18.)

AMENDMENTS

1987—Subsec. (a)(1). Pub. L. 100–4, §205(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''that such works are included in any applicable areawide waste treatment management plan developed under section 1288 of this title;''.

Subsec. (a)(2). Pub. L. 100–4, §205(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''that such works are in conformity with any applicable State plan under section 1313(e) of this title;''.

Subsec. (b)(1). Pub. L. 100–4, §205(c), inserted at end ''A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.''

1981—Subsec. (a)(5). Pub. L. 97–117, §10(a), inserted provision that beginning Oct. 1, 1984, no grant be made under this subchapter to construct that portion of any treatment works providing reserve capacity in excess of existing needs on the date of approval of a grant for the erection, building, etc., of a project for secondary treatment or more stringent treatment or new interceptors and appurtenances, except that in no event shall reserve capacity of a facility and its related interceptors to which this subsection applies be in excess of existing needs on Oct. 1, 1990, and that in any case in which an applicant proposes to provide reserve capacity greater than that eligible for Federal financial assistance under this subchapter, the incremental costs of the additional reserve capacity be paid by the applicant.

Subsec. (a)(6). Pub. L. 97–117, §11, struck out '', or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal' '' after ''parts and equipment'' and inserted provision that when in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a ''brand name or equal'' description be used as a means to define performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.

Subsec. (c). Pub. L. 97–117, §10(b), added subsec. (c).

Subsec. (d). Pub. L. 97–117, §12, added subsec. (d).

1980—Subsec. (b)(1). Pub. L. 96–483, §2(a), redesignated cl. (C) as (B). Former cl. (B) relating to payment, as a condition of approval of a grant, to an applicant by industrial users of that portion of cost of construction allocable to the treatment of such industrial waste to the extent attributable to the Federal share of the cost of construction, was struck out.

Subsec. (b)(3) to (6). Pub. L. 96–483, §2(b), redesignated pars. (4) and (5) as (3) and (4), respectively. Former par. (3) relating to a formula determining the amount the grantee shall retain of the revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs, and former par. (6) relating to the exemption from the requirements of par. (1)(B) of industrial users with a flow of twenty-five thousand gallons or less per day, were struck out.

1977—Subsec. (a)(3). Pub. L. 95–217, §20, provided that any priority list developed pursuant to section

1313(e)(3)(H) of this title may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of the cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 1283(a) of this title which utilizes processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title.

Subsec. (a)(5). Pub. L. 95–217, § 21, provided that efforts to reduce total flow of sewage and unnecessary water consumption be taken into account, in accordance with regulations promulgated by the Administrator, that the amount of reserve capacity eligible for a grant under this subchapter be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 1288 of this title, or an applicable municipal master plan of development, and that, for the purpose of this paragraph, section 1288 of this title, and any such plan, projected population be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate.

Subsec. (b)(1). Pub. L. 95–217, §§ 22(a)(1), (2), 24(c), inserted ''(except as otherwise provided in this paragraph)'' after ''proportionate share'' in cl. (A) and ''(which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made)'' in cl. (B) and, at end of existing provisions, inserted sentences under which a dedicated ad valorem tax system is to be deemed the user charge system meeting the requirements of cl. (A) for the residential user class and such small non-residential user classes as defined by the Administrator in cases where an applicant, as of Dec. 27, 1977, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the wastes, and other appropriate factors), and such applicant is otherwise in compliance with cl. (A) of this paragraph with respect to each industrial user.

Subsec. (b)(3). Pub. L. 95–217, §§ 23, 24(a), substituted ''necessary for the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and future expansion'' for ''necessary for future expansion'' in cl. (B) and, at end of existing provisions, inserted sentence under which, subject to the approval of the Administrator, the following: ''Not a grantee that received a grant prior to Dec. 27, 1977, may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator''.

Subsec. (b)(5), (6). Pub. L. 95–217, §§ 22(b), 24(b), added pars. (5) and (6).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 205(d) of Pub. L. 100–4 provided that: ''This section [amending this section] shall take effect on the date of the enactment of this Act [Feb. 4, 1987], except that the amendments made by subsections (a) and (b) [amending this section] shall take effect on the last day of the two-year period beginning on such date of enactment.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–483 effective Dec. 27, 1977, see section 2(g) of Pub. L. 96–483, set out as a note under section 1281 of this title.

ELIMINATION OF INAPPLICABLE CONDITIONS OR REQUIREMENTS FROM CERTAIN GRANTS

Section 2(c) of Pub. L. 96–483 provided that: ''The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Federal Water Pollution Control Act [section 1281(g)(1) of this title] after March 1, 1973, and prior to the date of enactment of this Act [Oct. 21, 1980], any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section [amending subsec. (b) of this section] or release any grant recipient of the obligations established by such conditions or other requirement.''

Section 2(c) of Pub. L. 96–483, set out above, effective Dec. 27, 1977, see section 2(g) of Pub. L. 96–483, set out as an Effective Date of 1980 Amendment note under section 1281 of this title.

COST RECOVERY; SUSPENSION OF GRANT REQUIREMENTS THAT INDUSTRIAL USERS MAKE PAYMENTS

Section 75 of Pub. L. 95–217, as amended by Pub. L. 96–148, § 1, Dec. 16, 1979, 93 Stat. 1088; Pub. L. 96–483, § 2(f), Oct. 21, 1980, 94 Stat. 2361, directed Administrator of Environmental Protection Agency to study and report to Congress not later than last day of twelfth month which begins after Dec. 27, 1977, cost recovery procedures from industrial users of treatment works to the extent construction costs are attributable to the Federal share of the cost of construction.

§ 1285. Allotment of grant funds

(a) Funds for fiscal years during period June 30, 1972, and September 30, 1977; determination of amount

Sums authorized to be appropriated pursuant to section 1287 of this title for each fiscal year beginning after June 30, 1972, and before September 30, 1977, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after October 18, 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of table III of House Public Works Committee Print No. 92–50. For the fiscal year ending June 30, 1975, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93–28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print. Allotments for fiscal years which begin after the fiscal year ending

June 30, 1975, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 1375(b) of this title and only after such revised cost estimate shall have been approved by law specifically enacted after October 18, 1972.

(b) Availability and use of funds allotted for fiscal years during period June 30, 1972, and September 30, 1977; reallotment

(1) Any sums allotted to a State under subsection (a) of this section shall be available for obligation under section 1283 of this title on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. Any amounts so allotted which are not obligated by the end of such one-year period shall be immediately reallotted by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallotted sums shall be added to the last allotments made to the States. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this subchapter during any fiscal year.

(2) Any sums which have been obligated under section 1283 of this title and which are released by the payment of the final voucher for the project shall be immediately credited to the State to which such sums were last allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(c) Funds for fiscal years during period October 1, 1977, and September 30, 1981; funds for fiscal years 1982 to 1990; determination of amount

(1) Sums authorized to be appropriated pursuant to section 1287 of this title for the fiscal years during the period beginning October 1, 1977, and ending September 30, 1981, shall be allotted for each such year by the Administrator not later than the tenth day which begins after December 27, 1977. Notwithstanding any other provision of law, sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, shall be allotted in accordance with table 3 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives.

(2) Sums authorized to be appropriated pursuant to section 1287 of this title for the fiscal years 1982, 1983, 1984, and 1985 shall be allotted for each such year by the Administrator not later than the tenth day which begins after December 29, 1981. Notwithstanding any other provision of law, sums authorized for the fiscal year ending September 30, 1982, shall be allotted in accordance with table 3 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives. Sums authorized for the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be allotted in accordance with the following table:

States:	Fiscal years 1983 through 1985[1]
Alabama	.011398
Alaska	.006101
Arizona	.006885
Arkansas	.006668
California	.072901
Colorado	.008154
Connecticut	.012487
Delaware	.004965
District of Columbia	.004965
Florida	.034407
Georgia	.017234
Hawaii	.007895
Idaho	.004965
Illinois	.046101
Indiana	.024566
Iowa	.013796
Kansas	.009201
Kentucky	.012973
Louisiana	.011205
Maine	.007788
Maryland	.024653
Massachusetts	.034608
Michigan	.043829
Minnesota	.018735
Mississippi	.009184
Missouri	.028257
Montana	.004965
Nebraska	.005214
Nevada	.004965
New Hampshire	.010186
New Jersey	.041654
New Mexico	.004965
New York	.113097
North Carolina	.018396
North Dakota	.004965
Ohio	.057383
Oklahoma	.008235
Oregon	.011515
Pennsylvania	.040377
Rhode Island	.006750
South Carolina	.010442
South Dakota	.004965
Tennessee	.014807
Texas	.038726
Utah	.005371
Vermont	.004965
Virginia	.020861
Washington	.017726
West Virginia	.015890
Wisconsin	.027557
Wyoming	.004965
Samoa	.000915
Guam	.000662
Northern Marianas	.000425
Puerto Rico	.013295
Pacific Trust Territories	.001305
Virgin Islands	.000531
United States totals	.999996

(3) FISCAL YEARS 1987–1990.—Sums authorized to be appropriated pursuant to section 1287 of this title for the fiscal years 1987, 1988, 1989, and 1990 shall be allotted for each such year by the Administrator not later than the 10th day which begins after February 4, 1987. Sums authorized for such fiscal years shall be allotted in accordance with the following table:

States:	
Alabama	.011309
Alaska	.006053

[1] So in original. Probably should be ''1986''.

States:	
Arizona	.006831
Arkansas	.006616
California	.072333
Colorado	.008090
Connecticut	.012390
Delaware	.004965
District of Columbia	.004965
Florida	.034139
Georgia	.017100
Hawaii	.007833
Idaho	.004965
Illinois	.045741
Indiana	.024374
Iowa	.013688
Kansas	.009129
Kentucky	.012872
Louisiana	.011118
Maine	.007829
Maryland	.024461
Massachusetts	.034338
Michigan	.043487
Minnesota	.018589
Mississippi	.009112
Missouri	.028037
Montana	.004965
Nebraska	.005173
Nevada	.004965
New Hampshire	.010107
New Jersey	.041329
New Mexico	.004965
New York	.111632
North Carolina	.018253
North Dakota	.004965
Ohio	.056936
Oklahoma	.008171
Oregon	.011425
Pennsylvania	.040062
Rhode Island	.006791
South Carolina	.010361
South Dakota	.004965
Tennessee	.014692
Texas	.046226
Utah	.005329
Vermont	.004965
Virginia	.020698
Washington	.017588
West Virginia	.015766
Wisconsin	.027342
Wyoming	.004965
American Samoa	.000908
Guam	.000657
Northern Marianas	.000422
Puerto Rico	.013191
Pacific Trust Territories	.001295
Virgin Islands	.000527

(d) Availability and use of funds; reallotment

Sums allotted to the States for a fiscal year shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twelve months. The amount of any allotment not obligated by the end of such twenty-four-month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1978 and for fiscal years thereafter shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this subchapter during any fiscal year.

(e) Minimum allotment; additional appropriations; ratio of amount available

For the fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, and 1990, no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one-hundredths of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, and 1990. If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection, the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

(f) Omitted

(g) Reservation of funds; State management assistance

(1) The Administrator is authorized to reserve each fiscal year not to exceed 2 per centum of the amount authorized under section 1287 of this title for purposes of the allotment made to each State under this section on or after October 1, 1977, except in the case of any fiscal year beginning on or after October 1, 1981, and ending before October 1, 1994, in which case the percentage authorized to be reserved shall not exceed 4 per centum.[2] or $400,000 whichever amount is the greater. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment. Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.

(2) The Administrator is authorized to grant to any State from amounts reserved to such State under this subsection, the reasonable costs of administering any aspects of sections 1281, 1283, 1284, and 1292 of this title the responsibility for administration of which the Administrator has delegated to such State. The Administrator may increase such grant to take into account the reasonable costs of administer-

[2] So in original. The period probably should be a comma.

ing an approved program under section 1342 or 1344 of this title, administering a state-wide waste treatment management planning program under section 1288(b)(4) of this title, and managing waste treatment construction grants for small communities.

(h) Alternate systems for small communities

The Administrator shall set aside from funds authorized for each fiscal year beginning on or after October 1, 1978, a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent of the sums allotted to any State with a rural population of 25 per centum or more of the total population of such State, as determined by the Bureau of the Census. The Administrator may set aside no more than 7½ percent of the sums allotted to any other State for which the Governor requests such action. Such sums shall be available only for alternatives to conventional sewage treatment works for municipalities having a population of three thousand five hundred or less, or for the highly dispersed sections of larger municipalities, as defined by the Administrator.

(i) Set-aside for innovative and alternative projects

Not less than ½ of 1 percent of funds allotted to a State for each of the fiscal years ending September 30, 1979, through September 30, 1990, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques pursuant to section 1282(a)(2) of this title. Including the expenditures authorized by the preceding sentence, a total of 2 percent of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 percent of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (c) of this section shall be expended only for increasing grants for construction of treatment works pursuant to section 1282(a)(2) of this title. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent of the funds allotted to such State under subsection (c) of this section for each of the fiscal years ending September 30, 1982, through September 30, 1990, shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 1282(a)(2) of this title.

(j) Water quality management plan; reservation of funds for nonpoint source management

(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the sums allotted and available for obligation to each State under this section for each fiscal year beginning on or after October 1, 1981, or $100,000, whichever amount is the greater.

(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to—

(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;

(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A);

(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, and reporting on these annually; and

(D) determining those publicly owned treatment works which should be constructed with assistance under this subchapter, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and implementing section 1313(e) of this title.

(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection. In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this chapter, the allocation to such organization may be less than 40 percent of such amount.

(4) All activities undertaken under this subsection shall be in coordination with other related provisions of this chapter.

(5) NONPOINT SOURCE RESERVATION.—In addition to the sums reserved under paragraph (1), the Administrator shall reserve each fiscal year for each State 1 percent of the sums allotted and available for obligation to such State under this section for each fiscal year beginning on or after October 1, 1986, or $100,000, whichever is greater, for the purpose of carrying out section 1329 of this title. Sums so reserved in a State in any fiscal year for which such State does not request the use of such sums, to the extent such sums exceed $100,000, may be used by such State for other purposes under this subchapter.

(k) New York City Convention Center

The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this sub-

section shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this chapter.

(*l*) Marine estuary reservation

(1) Reservation of funds

(A) General rule

Prior to making allotments among the States under subsection (c) of this section, the Administrator shall reserve funds from sums appropriated pursuant to section 1287 of this title for each fiscal year beginning after September 30, 1986.

(B) Fiscal years 1987 and 1988

For each of fiscal years 1987 and 1988 the reservation shall be 1 percent of the sums appropriated pursuant to section 1287 of this title for such fiscal year.

(C) Fiscal years 1989 and 1990

For each of fiscal years 1989 and 1990 the reservation shall be 1½ percent of the funds appropriated pursuant to section 1287 of this title for such fiscal year.

(2) Use of funds

Of the sums reserved under this subsection, two-thirds shall be available to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, and one-third shall be available for the implementation of section 1330 of this title, relating to the national estuary program.

(3) Period of availability

Sums reserved under this subsection shall be subject to the period of availability for obligation established by subsection (d) of this section.

(4) Treatment of certain body of water

For purposes of this section and section 1281(n) of this title, Newark Bay, New Jersey, and the portion of the Passaic River up to Little Falls, in the vicinity of Beatties Dam, shall be treated as a marine bay and estuary.

(m) Discretionary deposits into State water pollution control revolving funds

(1) From construction grant allotments

In addition to any amounts deposited in a water pollution control revolving fund established by a State under subchapter VI of this chapter, upon request of the Governor of such State, the Administrator shall make available to the State for deposit, as capitalization grants, in such fund in any fiscal year beginning after September 30, 1986, such portion of the amounts allotted to such State under this section for such fiscal year as the Governor considers appropriate; except that (A) in fiscal year 1987, such deposit may not exceed 50 percent of the amounts allotted to such State under this section for such fiscal year, and (B) in fiscal year 1988, such deposit may not exceed 75 percent of the amounts allotted to such State under this section for this fiscal year.

(2) Notice requirement

The Governor of a State may make a request under paragraph (1) for a deposit into the water pollution control revolving fund of such State—

(A) in fiscal year 1987 only if no later than 90 days after February 4, 1987, and

(B) in each fiscal year thereafter only if 90 days before the first day of such fiscal year,

the State provides notice of its intent to make such deposit.

(3) Exception

Sums reserved under section 1285(j) of this title shall not be available for obligation under this subsection.

(June 30, 1948, ch. 758, title II, § 205, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 837; amended Pub. L. 93–243, § 1, Jan. 2, 1974, 87 Stat. 1069; Pub. L. 95–217, §§ 25, 26(a), 27, 28, Dec. 27, 1977, 91 Stat. 1574, 1575; Pub. L. 96–483, § 11, Oct. 21, 1980, 94 Stat. 2363; Pub. L. 97–117, §§ 8(c), 13–16, Dec. 29, 1981, 95 Stat. 1625, 1627–1629; Pub. L. 100–4, title II, §§ 206(a)–(c), 207–210, 212(b), title III, § 316(d), Feb. 4, 1987, 101 Stat. 19–21, 27, 60; Pub. L. 105–362, title V, § 501(d)(2)(C), Nov. 10, 1998, 112 Stat. 3284; Pub. L. 107–303, title III, § 302(b)(1), Nov. 27, 2002, 116 Stat. 2361.)

CODIFICATION

Subsec. (f) provided that sums made available for obligation between Jan. 1, 1975, and Mar. 1, 1975, be available for obligation until Sept. 30, 1978.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–303 repealed Pub. L. 105–362, § 501(d)(2)(C). See 1998 Amendment note below.

1998—Subsec. (a). Pub. L. 105–362, § 501(d)(2)(C), which directed the substitution of ''section 1375 of this title'' for ''section 1375(b) of this title'' in last sentence, was repealed by Pub. L. 107–303. See Effective Date of 2002 Amendment note below.

1987—Subsec. (c)(2). Pub. L. 100–4, § 206(a)(1), substituted ''September 30, 1985, and September 30, 1986'' for ''and September 30, 1985''.

Subsec. (c)(3). Pub. L. 100–4, § 206(a)(2), added par. (3).

Subsec. (e). Pub. L. 100–4, § 206(b), substituted ''1985, 1986, 1987, 1988, 1989, and 1990'' for ''and 1985'' in two places.

Subsec. (g)(1). Pub. L. 100–4, § 206(c), substituted ''October 1, 1994'' for ''October 1, 1985''.

Subsec. (h). Pub. L. 100–4, § 207, substituted ''a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent'' for ''four per centum'' and ''7½ per cent'' for ''four per centum''.

Subsec. (i). Pub. L. 100–4, § 208, amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: ''Not less than one-half of one per centum of funds allotted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques pursuant to section 1282(a)(2) of this title. Including the expenditures authorized by the preceding sentence, a total of two per centum of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 per centum of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 1282(a)(2) of this

title. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 per centum nor more than 7½ per centum of the funds allotted to such State for any fiscal year beginning after September 30, 1981, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 1282(a)(2) of this title.''

Subsec. (j)(3). Pub. L. 100–4, §209, inserted provision directing State to allocate at least 40 percent of amount granted under par. (2) to regional public comprehensive planning organizations and appropriate interstate organizations for development and implementation of plan, with exception for less than 40 percent allocation in certain circumstances.

Subsec. (j)(5). Pub. L. 100–4, §316(d), added par. (5).

Subsec. (*l*). Pub. L. 100–4, §210, added subsec. (*l*).

Subsec. (m). Pub. L. 100–4, §212(b), added subsec. (m).

1981—Subsec. (c). Pub. L. 97–117, §13(a), designated existing provision as par. (1) and added par. (2).

Subsec. (e). Pub. L. 97–117, §13(b), substituted ''1981, 1982, 1983, 1984, and 1985'' for ''and 1981'' in two places.

Subsec. (g)(1). Pub. L. 97–117, §14, inserted ''except in the case of any fiscal year beginning on or after October 1, 1981, and ending before October 1, 1985, in which case the percentage authorized to be reserved shall not exceed 4 per centum.'' after ''October 1, 1977,'' and provision that sums authorized to be reserved be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.

Subsec. (i). Pub. L. 97–117, §8(c), substituted ''September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985'' for ''and September 30, 1981'', struck out ''from 75 per centum to 85 per centum'' after ''innovative processes and techniques'', and inserted provision that including the expenditures authorized by the first sentence of this subsection, a total, as determined by the State Governor, of not less than 4 per centum nor more than 7½ per centum of the funds allotted to such State for any fiscal year beginning after Sept. 30, 1981, under subsec. (c) of this section be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 1282(a)(2) of this title.

Subsecs. (j), (k). Pub. L. 97–117, §§15, 16, added subsecs. (j) and (k).

1980—Subsec. (g)(1). Pub. L. 96–483 inserted ''of the amount authorized under section 1287 of this title for purposes'' after ''2 per centum''.

1977—Subsec. (a). Pub. L. 95–217, §25(a), substituted ''each fiscal year beginning after June 30, 1972, and before September 30, 1977'' for ''each fiscal year beginning after June 30, 1972''.

Subsecs. (c) to (f). Pub. L. 95–217, §25(b), added subsecs. (c) to (f).

Subsecs. (g) to (i). Pub. L. 95–217, §§26(a), 27, 28, added subsecs. (g) to (i).

1974—Subsec. (a). Pub. L. 93–243 inserted provisions that for the fiscal year ending June 30, 1975, the ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93–28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print and substituted ''June 30, 1975'' for ''June 30, 1974'' in sentence beginning ''Allotments for fiscal years''.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–303 effective Nov. 10, 1998, and Federal Water Pollution Act (33 U.S.C. 1251 et seq.) to be applied and administered on and after Nov. 27, 2002, as if amendments made by section 501(a)–(d) of Pub. L. 105–362 had not been enacted, see section 302(b) of Pub. L. 107–303, set out as a note under section 1254 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

AVAILABILITY OF ALLOTTED SUMS IN SUBSEQUENT YEARS; REALLOTMENT OF UNOBLIGATED SUMS

Section 7 of Pub. L. 96–483 provided that: ''Notwithstanding section 205(d) of the Federal Water Pollution Control Act (33 U.S.C. 1285), sums allotted to the States for the fiscal year 1979 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. The amount of any allotment not obligated by the end of such thirty-six month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1979 shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this section shall be in addition to any funds otherwise allotted to such State for grants under title II of the Federal Water Pollution Control Act [this subchapter] during any fiscal year. This section shall take effect on September 30, 1980.''

§ 1286. Reimbursement and advanced construction

(a) Publicly owned treatment works construction initiated after June 30, 1966, but before July 1, 1973; reimbursement formula

Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1973, which was approved by the appropriate State water pollution control agency and which the Administrator finds meets the requirements of section 1158 of this title in effect at the time of the initiation of construction shall be reimbursed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under such section 1158 of this title for such project and 50 per centum of the cost of such project, or 55 per centum of the project cost where the Administrator also determines that such treatment works was constructed in conformity with a comprehensive metropolitan treatment plan as described in section 1158(f) of this title as in effect immediately prior to October 18, 1972. Nothing in this subsection shall result in any such works receiving Federal grants from all sources in excess of 80 per centum of the cost of such project.

(b) Publicly owned treatment works construction initiated between June 30, 1956, and June 30, 1966; reimbursement formula

Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 1158 of this title prior to October 18, 1972 but which was constructed without assistance under such section

1158 of this title or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursement of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the cost of such project.

(c) Application for reimbursement

No publicly owned treatment works shall receive any payment or reimbursement under subsection (a) or (b) of this section unless an application for such assistance is filed with the Administrator within the one year period which begins on October 18, 1972. Any application filed within such one year period may be revised from time to time, as may be necessary.

(d) Allocation of funds

The Administrator shall allocate to each qualified project under subsection (a) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such year bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation. The Administrator shall allocate to each qualified project under subsection (b) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such year bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out subsection (a) of this section not to exceed $2,600,000,000 and, to carry out subsection (b) of this section, not to exceed $750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

(f) Additional funds

(1) In any case where a substantial portion of the funds allotted to a State for the current fiscal year under this subchapter have been obligated under section 1281(g) of this title, or will be so obligated in a timely manner (as determined by the Administrator), and there is construction of any treatment works project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this subchapter if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the first fiscal year in the period for which the application requests payment and such requested payment for that fiscal year does not exceed the State's expected allotment from such authorization. The Administrator shall not be required to make such requested payment for any fiscal year—

(A) to the extent that such payment would exceed such State's allotment of the amount appropriated for such fiscal year; and

(B) unless such payment is for a project which, on the basis of an approved funding priority list of such State, is eligible to receive such payment based on the allotment and appropriation for such fiscal year.

To the extent that sufficient funds are not appropriated to pay the full Federal share with respect to a project for which obligations under the provisions of this subsection have been made, the Administrator shall reduce the Federal share to such amount less than 75 per centum as such appropriations do provide.

(2) In determining the allotment for any fiscal year under this subchapter, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of this subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

(June 30, 1948, ch. 758, title II, § 206, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 838; amended Pub. L. 93–207, § 1(2), Dec. 28, 1973, 87 Stat. 906; Pub. L. 95–217, § 29(a), Dec. 27, 1977, 91 Stat. 1576; Pub. L. 96–483, § 5, Oct. 21, 1980, 94 Stat. 2361.)

REFERENCES IN TEXT

Section 1158 of this title, referred to in subsecs. (a) and (b), refers to section 8 of act June 30, 1948, ch. 758, 62 Stat. 1158, prior to the supersedure and reenactment of act June 30, 1948, by act Oct. 18, 1972, Pub. L. 92–500, 86 Stat. 816. Provisions of section 1158 of this title are covered by this subchapter.

This Act, referred to in subsec. (b), means act June 30, 1948, ch. 758, 62 Stat. 1155, prior to the supersedure and reenactment of act June 30, 1948 by act Oct. 18, 1972, Pub. L. 92–500, 86 Stat. 816. Act June 30, 1948, ch. 758, as added by act Oct. 18, 1972, Pub. L. 92–500, 86 Stat. 816, enacted this chapter.

AMENDMENTS

1980—Subsec. (f)(1). Pub. L. 96–483 substituted ''In any case where a substantial portion of the funds allotted to a State for the current fiscal year under this subchapter have been obligated under section 1281(g) of this title, or will be so obligated in a timely manner (as determined by the Administrator)'' for ''In any case where all funds allotted to a State under this subchapter have been obligated under section 1283 of this title'', substituted ''first fiscal year'' for ''future fiscal year'', inserted ''in the period'' before ''for which the application'', substituted ''and such requested payment for that fiscal year does not exceed the State's expected allotment from such authorization. The Administrator

shall not be required to make such requested payment for any fiscal year—'' for ''which authorization will insure such payment without exceeding the State's expected allotment from such authorization.'', and added subpars. (A), (B), and provisions following subpar. (B).

1977—Subsec. (a). Pub. L. 95–217 substituted ''July 1, 1973'' for ''July 1, 1972''.

1973—Subsec. (e). Pub. L. 93–207 substituted ''$2,600,000,000'' for ''$2,000,000,000''.

APPLICATION FOR ASSISTANCE FOR PUBLICLY OWNED TREATMENT WORKS WHERE GRANTS WERE MADE BEFORE JULY 2, 1972, AND ON WHICH CONSTRUCTION WAS INITIATED BEFORE JULY 1, 1973

Section 29(b) of Pub. L. 95–217 provided that applications for assistance for publicly owned treatment works for which a grant was made under this chapter before July 1, 1972, and on which construction was initiated before July 1, 1973, be filed not later than the ninetieth day after Dec. 27, 1977.

APPLICATION FOR ASSISTANCE

Section 2 of Pub. L. 93–207 provided that notwithstanding the requirements of subsec. (c) of this section, applications for assistance under this section could have been filed with the Administrator until Jan. 31, 1974.

ALLOCATION OF CONSTRUCTION GRANTS APPROPRIATED FOR THE YEAR ENDING JUNE 30, 1973; INTERIM PAYMENTS; LIMITATIONS

Section 3 of Pub. L. 93–207 provided that: ''Funds available for reimbursement under Public Law 92–399 [making appropriations for Agriculture-Environmental and Consumer Protection Programs for the fiscal year ending June 30, 1973] shall be allocated in accordance with subsection (d) of section 206 of the Federal Water Pollution Control Act (86 Stat. 838) [subsec. (d) of this section], pro rata among all projects eligible under subsection (a) of such section 206 [subsec. (a) of this section] for which applications have been submitted and approved by the Administrator pursuant to such Act [this chapter]. Notwithstanding the provisions of subsection (d) of such section 206, (1) the Administrator is authorized to make interim payments to each such project for which an application has been approved on the basis of estimates of maximum pro rata entitlement of all applicants under section 206(a) and (2) for the purpose of determining allocation of sums available under Public Law 92–399, the unpaid balance of reimbursement due such projects shall be computed as of January 31, 1974. Upon completion by the Administrator of his audit and approval of all projects for which an application has been filed under subsection (a) of such section 206, the Administrator shall, within the limits of appropriated funds, allocate to each such qualified project the amount remaining, if any, of its total entitlement. Amounts allocated to projects which are later determined to be in excess of entitlement shall be available for reallocation, until expended, to other qualified projects under subsection (a) of such section 206. In no event, however, shall any payments exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.''

§ 1287. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter, other than sections 1286(e), 1288 and 1289 of this title, for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000, and subject to such amounts as are provided in appropriation Acts, for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, not to exceed $5,000,000,000; for the fiscal year ending September 30, 1981, not to exceed $2,548,837,000; and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, not to exceed $2,400,000,000 per fiscal year; and for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $2,400,000,000; and for each of the fiscal years ending September 30, 1989, and September 30, 1990, not to exceed $1,200,000,000.

(June 30, 1948, ch. 758, title II, § 207, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 839; amended Pub. L. 93–207, § 1(3), Dec. 28, 1973, 87 Stat. 906; Pub. L. 95–217, § 30, Dec. 27, 1977, 91 Stat. 1576; Pub. L. 97–35, title XVIII, § 1801(a), Aug. 13, 1981, 95 Stat. 764; Pub. L. 97–117, § 17, Dec. 29, 1981, 95 Stat. 1630; Pub. L. 100–4, title II, § 211, Feb. 4, 1987, 101 Stat. 21.)

AMENDMENTS

1987—Pub. L. 100–4 inserted ''; and for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $2,400,000,000; and for each of the fiscal years ending September 30, 1989, and September 30, 1990, not to exceed $1,200,000,000'' before period at end.

1981—Pub. L. 97–117 substituted ''and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, not to exceed $2,400,000,000 per fiscal year'' for ''and for the fiscal year ending September 30, 1982, not to exceed $0, unless there is enacted legislation establishing an allotment formula for fiscal year 1982 construction grant funds and otherwise reforming the municipal sewage treatment construction grant program under this subchapter, in which case the authorization for fiscal year 1982 shall be an amount not to exceed $2,400,000,000''.

Pub. L. 97–35 substituted provisions authorizing not to exceed $2,548,837,000 for fiscal year ending Sept. 30, 1981, and not to exceed $0 for the fiscal year ending Sept. 30, 1982, unless an allotment formula is enacted, in which case the authorization is not to exceed $2,400,000,000, for provisions authorizing not to exceed $5,000,000,000 for fiscal years ending Sept. 30, 1981 and 1982.

1977—Pub. L. 95–217 inserted ''and subject to such amounts as are provided in appropriation Acts, for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year''.

1973—Pub. L. 93–207 inserted reference to section 1286(e) of this title.

ADDITIONAL AUTHORIZATION OF APPROPRIATIONS

Pub. L. 94–369, title III, § 301, July 22, 1976, 90 Stat. 1011, provided for authorization to carry out this subchapter, other than sections 1286, 1288, and 1289, for the fiscal year ending Sept. 30, 1977, not to exceed $700,000,000, which sum (subject to amounts provided in appropriation Acts) was to be allotted to each State listed in column 1 of table IV contained in House Public Works and Transportation Committee Print numbered 94–25 in accordance with the percentages provided for such State (if any) in column 5 of such table, and such sum to be in addition to, and not in lieu of, any funds otherwise authorized and to be available until expended.

§ 1288. Areawide waste treatment management

(a) Identification and designation of areas having substantial water quality control problems

For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

(1) The Administrator, within ninety days after October 18, 1972, and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after consultation with appropriate elected and other officials of local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization, including elected officials from local governments or their designees, capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing effective areawide waste treatment management plans for such area.

(4) If a Governor does not act, either by designating or determining not to make a designation under paragraph (2) of this subsection, within the time required by such paragraph, or if, in the case of an interstate area, the Governors of the States involved do not designate a planning organization within the time required by paragraph (3) of this subsection, the chief elected officials of local governments within an area may by agreement designate (A) the boundaries for such an area, and (B) a single representative organization including elected officials from such local governments, or their designees, capable of developing an areawide waste treatment management plan for such area.

(5) Existing regional agencies may be designated under paragraphs (2), (3), and (4) of this subsection.

(6) The State shall act as a planning agency for all portions of such State which are not designated under paragraphs (2), (3), or (4) of this subsection.

(7) Designations under this subsection shall be subject to the approval of the Administrator.

(b) Planning process

(1)(A) Not later than one year after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 1281 of this title. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved. The initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than two years after the planning process is in operation.

(B) For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6) of this section, the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.

(2) Any plan prepared under such process shall include, but not be limited to—

(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works, and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation;

(B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

(C) the establishment of a regulatory program to—

(i) implement the waste treatment management requirements of section 1281(c) of this title,

(ii) regulate the location, modification, and construction of any facilities within

such area which may result in any discharge in such area, and

(iii) assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatment requirements;

(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time;

(F) a process to (i) identify, if appropriate, agriculturally and silviculturally related nonpoint sources of pollution, including return flows from irrigated agriculture, and their cumulative effects, runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(H) a process to (i) identify construction activity related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan;

(J) a process to control the disposition of all residual waste generated in such area which could affect water quality; and

(K) a process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality.

(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

(4)(A) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 1313 of this title so requires, the requirements of clauses (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for approval for application to a class or category of activity throughout such State.

(B) Any program submitted under subparagraph (A) of this paragraph which, in whole or in part, is to control the discharge or other placement of dredged or fill material into the navigable waters shall include the following:

(i) A consultation process which includes the State agency with primary jurisdiction over fish and wildlife resources.

(ii) A process to identify and manage the discharge or other placement of dredged or fill material which adversely affects navigable waters, which shall complement and be coordinated with a State program under section 1344 of this title conducted pursuant to this chapter.

(iii) A process to assure that any activity conducted pursuant to a best management practice will comply with the guidelines established under section 1344(b)(1) of this title, and sections 1317 and 1343 of this title.

(iv) A process to assure that any activity conducted pursuant to a best management practice can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the best management practice;

(II) change in any activity that requires either a temporary or permanent reduction or elimination of the discharge pursuant to the best management practice.

(v) A process to assure continued coordination with Federal and Federal-State water-related planning and reviewing processes, including the National Wetlands Inventory.

(C) If the Governor of a State obtains approval from the Administrator of a statewide regulatory program which meets the requirements of subparagraph (B) of this paragraph and if such State is administering a permit program under section 1344 of this title, no person shall be required to obtain an individual permit pursuant to such section, or to comply with a general permit issued pursuant to such section, with respect to any appropriate activity within such State for which a best management practice has been approved by the Administrator under the program approved by the Administrator pursuant to this paragraph.

(D)(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(ii) In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a sub-

stantial failure of the State to administer its program in accordance with the requirements of this paragraph.

(c) Regional operating agencies

(1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, shall designate one or more waste treatment management agencies (which may be an existing or newly created local, regional, or State agency or political subdivision) for each area designated under subsection (a) of this section and submit such designations to the Administrator.

(2) The Administrator shall accept any such designation, unless, within 120 days of such designation, he finds that the designated management agency (or agencies) does not have adequate authority—

(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

(E) to raise revenues, including the assessment of waste treatment charges;

(F) to incur short- and long-term indebtedness;

(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

(I) to accept for treatment industrial wastes.

(d) Conformity of works with area plan

After a waste treatment management agency having the authority required by subsection (c) of this section has been designated under such subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 1281(g)(1) of this title within such area except to such designated agency and for works in conformity with such plan.

(e) Permits not to conflict with approved plans

No permit under section 1342 of this title shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

(f) Grants

(1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.

(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal, subject to such amounts as are provided in appropriation Acts. There is authorized to be appropriated to carry out this subsection not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982, and such sums as may be necessary for fiscal years 1983 through 1990.

(g) Technical assistance by Administrator

The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

(h) Technical assistance by Secretary of the Army

(1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designed[1] under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed $50,000,000 per fiscal

[1] So in original. Probably should be ''designated''.

year for the fiscal years ending June 30, 1973, and June 30, 1974.

(i) State best management practices program

(1) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall, upon request of the Governor of a State, and without reimbursement, provide technical assistance to such State in developing a statewide program for submission to the Administrator under subsection (b)(4)(B) of this section and in implementing such program after its approval.

(2) There is authorized to be appropriated to the Secretary of the Interior $6,000,000 to complete the National Wetlands Inventory of the United States, by December 31, 1981, and to provide information from such Inventory to States as it becomes available to assist such States in the development and operation of programs under this chapter.

(j) Agricultural cost sharing

(1) The Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the Department of Agriculture as the Secretary may designate, is authorized and directed to establish and administer a program to enter into contracts, subject to such amounts as are provided in advance by appropriation acts, of not less than five years nor more than ten years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality in those States or areas for which the Administrator has approved a plan under subsection (b) of this section where the practices to which the contracts apply are certified by the management agency designated under subsection (c)(1) of this section to be consistent with such plans and will result in improved water quality. Such contracts may be entered into during the period ending not later than September 31, 1988. Under such contracts the land owner or operator shall agree—

(i) to effectuate a plan approved by a soil conservation district, where one exists, under this section for his farm, ranch, or other land substantially in accordance with the schedule outlined therein unless any requirement thereof is waived or modified by the Secretary;

(ii) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments and grants received thereunder, with interest, upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the soil conservation district, where one exists, and the Administrator, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

(iii) upon transfer of his right and interest in the farm, ranch, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder, with interest, unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

(iv) not to adopt any practice specified by the Secretary on the advice of the Administrator in the contract as a practice which would tend to defeat the purposes of the contract;

(v) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program.

(2) In return for such agreement by the landowner or operator the Secretary shall agree to provide technical assistance and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost sharing is appropriate and in the public interest and which are approved for cost sharing by the agency designated to implement the plan developed under subsection (b) of this section. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the installation of the water quality management practices and measures under the contract, but not to exceed 50 per centum of the total cost of the measures set forth in the contract; except the Secretary may increase the matching cost share where he determines that (1) the main benefits to be derived from the measures are related to improving offsite water quality, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(3) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other conservation, land use, or water quality programs.

(4) In providing assistance under this subsection the Secretary will give priority to those areas and sources that have the most significant effect upon water quality. Additional investigations or plans may be made, where necessary, to supplement approved water quality management plans, in order to determine priorities.

(5) The Secretary shall, where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program established in this subsection under regulations developed by the Secretary. Such agreements shall provide for the submission of such reports as the Secretary deems necessary, and for payment by the United States of such portion of the costs incurred in the administration of the program as the Secretary may deem appropriate.

(6) The contracts under this subsection shall be entered into only in areas where the management agency designated under subsection (c)(1) of this section assures an adequate level of participation by owners and operators having control of rural land in such areas. Within such areas the local soil conservation district, where one exists, together with the Secretary of Agriculture, will determine the priority of assistance among individual land owners and operators to assure that the most critical water quality problems are addressed.

(7) The Secretary, in consultation with the Administrator and subject to section 1314(k) of this title, shall, not later than September 30, 1978, promulgate regulations for carrying out this subsection and for support and cooperation with other Federal and non-Federal agencies for implementation of this subsection.

(8) This program shall not be used to authorize or finance projects that would otherwise be eligible for assistance under the terms of Public Law 83–566 [16 U.S.C. 1001 et seq.].

(9) There are hereby authorized to be appropriated to the Secretary of Agriculture $200,000,000 for fiscal year 1979, $400,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, $100,000,000 for fiscal year 1982, and such sums as may be necessary for fiscal years 1983 through 1990, to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.

(June 30, 1948, ch. 758, title II, § 208, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 839; amended Pub. L. 95–217, §§ 4(e), 31, 32, 33(a), 34, 35, Dec. 27, 1977, 91 Stat. 1566, 1576–1579; Pub. L. 96–483, § 1(d), (e), Oct. 21, 1980, 94 Stat. 2360; Pub. L. 100–4, title I, § 101(d), (e), Feb. 4, 1987, 101 Stat. 9.)

REFERENCES IN TEXT

Public Law 83–566, referred to in subsec. (j)(8), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, known as the Watershed Protection and Flood Prevention Act, which is classified generally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

AMENDMENTS

1987—Subsec. (f)(3). Pub. L. 100–4, § 101(d), struck out ''and'' after ''1974,'' and ''1980,'' and inserted '', and such sums as may be necessary for fiscal years 1983 through 1990'' after ''1982''.

Subsec. (j)(9). Pub. L. 100–4, § 101(e), struck out ''and'' after ''1981,'' and inserted ''and such sums as may be necessary for fiscal years 1983 through 1990,'' after ''1982,''.

1980—Subsec. (f)(3). Pub. L. 96–483, § 1(d), inserted authorization of not to exceed $100,000,000 per fiscal year for fiscal years ending Sept. 30, 1981 and 1982.

Subsec. (j)(9). Pub. L. 96–483, § 1(e), inserted reference to authorization of $100,000,000 for each of fiscal years 1981 and 1982.

1977—Subsec. (b)(1). Pub. L. 95–217, § 31(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(2)(A). Pub. L. 95–217, § 32, inserted '', and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation'' after ''development of such treatment works''.

Subsec. (b)(2)(F). Pub. L. 95–217, § 33(a), substituted ''sources of pollution, including return flows from irrigated agriculture, and their cumulative effects,'' for ''sources of pollution, including''.

Subsec. (b)(4). Pub. L. 95–217, § 34(a), designated existing provisions as subpar. (A), substituted ''to the Administrator for approval for application to a class or category of activity throughout such State'' for ''to the Administrator for application to all regions within such State'', and added subpars. (B) to (D).

Subsec. (f)(2). Pub. L. 95–217, § 31(b), substituted ''For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period'' for ''The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year'' and inserted ''In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.''

Subsec. (f)(3). Pub. L. 95–217, §§ 4(e), 31(c), substituted ''and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980'' for ''and not to exceed $150,000,000 for the fiscal year ending June 30, 1975'' and inserted ''subject to such amounts as are provided in appropriation Acts'' after ''contractual obligation of the United States for the payment of its contribution to such proposal''.

Subsec. (i). Pub. L. 95–217, § 34(b), added subsec. (i).

Subsec. (j). Pub. L. 95–217, § 35, added subsec. (j).

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, relating to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of the date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 1289. Basin planning

(a) Preparation of Level B plans

The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act [42 U.S.C. 1962 et seq.] for

all basins in the United States. All such plans shall be completed not later than January 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated under paragraphs (2), (3), and (4) of subsection (a) of section 1288 of this title.

(b) Reporting requirements

The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submitted not later than January 31, 1973.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section not to exceed $200,000,000.

(June 30, 1948, ch. 758, title II, § 209, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 843.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (a), is Pub. L. 89–80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§ 1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables.

§ 1290. Annual survey

The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works constructed with grants made under this chapter, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 1375(a) of this title.

(June 30, 1948, ch. 758, title II, § 210, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 843; amended Pub. L. 105–362, title V, § 501(d)(2)(D), Nov. 10, 1998, 112 Stat. 3284; Pub. L. 107–303, title III, § 302(b)(1), Nov. 27, 2002, 116 Stat. 2361.)

AMENDMENTS

2002—Pub. L. 107–303 repealed Pub. L. 105–362, § 501(d)(2)(D). See 1998 Amendment note below.

1998—Pub. L. 105–362, § 501(d)(2)(D), which directed the substitution of ''shall be reported to Congress not later than 90 days after the date of convening of each session of Congress'' for ''shall be included in the report required under section 1375(a) of this title'', was repealed by Pub. L. 107–303. See Effective Date of 2002 Amendment note below.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–303 effective Nov. 10, 1998, and Federal Water Pollution Act (33 U.S.C. 1251 et seq.) to be applied and administered on and after Nov. 27, 2002, as if amendments made by section 501(a)–(d) of Pub. L. 105–362 had not been enacted, see section 302(b) of Pub. L. 107–303, set out as a note under section 1254 of this title.

§ 1291. Sewage collection systems

(a) Existing and new systems

No grant shall be made for a sewage collection system under this subchapter unless such grant (1) is for replacement or major rehabilitation of an existing collection system and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (2) is for a new collection system in an existing community with sufficient existing or planned capacity adequately to treat such collected sewage and is consistent with section 1281 of this title.

(b) Use of population density as test

If the Administrator uses population density as a test for determining the eligibility of a collector sewer for assistance it shall be only for the purpose of evaluating alternatives and determining the needs for such system in relation to ground or surface water quality impact.

(c) Pollutant discharges from separate storm sewer systems

No grant shall be made under this subchapter from funds authorized for any fiscal year during the period beginning October 1, 1977, and ending September 30, 1990, for treatment works for control of pollutant discharges from separate storm sewer systems.

(June 30, 1948, ch. 758, title II, § 211, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 843; amended Pub. L. 95–217, § 36, Dec. 27, 1977, 91 Stat. 1581; Pub. L. 97–117, § 2(b), Dec. 29, 1981, 95 Stat. 1623; Pub. L. 100–4, title II, § 206(d), Feb. 4, 1987, 101 Stat. 20.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100–4 substituted ''1990'' for ''1985''.

1981—Subsec. (c). Pub. L. 97–117 substituted ''September 30, 1985'' for ''September 30, 1982''.

1977—Pub. L. 95–217 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 1292. Definitions

As used in this subchapter—

(1) The term ''construction'' means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, field testing of innovative or alternative waste water treatment processes and techniques meeting guidelines promulgated under section 1314(d)(3) of this title, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(2)(A) The term ''treatment works'' means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 1281 of this title, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems

prior to land application) or is used for ultimate disposal of residues resulting from such treatment.

(B) In addition to the definition contained in subparagraph (A) of this paragraph, ''treatment works'' means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 1311 or 1312 of this title, or the requirements of section 1281 of this title.

(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after October 18, 1972, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in subparagraph (B) of this paragraph.

(3) The term ''replacement'' as used in this subchapter means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

(June 30, 1948, ch. 758, title II, § 212, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 844; amended Pub. L. 95–217, § 37, Dec. 27, 1977, 91 Stat. 1581; Pub. L. 97–117, § 8(d), Dec. 29, 1981, 95 Stat. 1626.)

AMENDMENTS

1981—Par. (1). Pub. L. 97–117 inserted ''field testing of innovative or alternative waste water treatment processes and techniques meeting guidelines promulgated under section 1314(d)(3) of this title,'' after ''procedures,''.

1977—Par. (2)(A). Pub. L. 95–217 inserted ''(including land used for the storage of treated wastewater in land treatment systems prior to land application)'' after ''integral part of the treatment process''.

§ 1293. Loan guarantees

(a) State or local obligations issued exclusively to Federal Financing Bank for publicly owned treatment works; determination of eligibility of project by Administrator

Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this subchapter, the Administrator is authorized to guarantee, and to make commitments to guarantee, the principal and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance that part of the cost of any grant-eligible project for the construction of publicly owned treatment works not paid for with Federal financial assistance under this subchapter (other than this section), which project the Administrator has determined to be eligible for such financial assistance under this subchapter, including, but not limited to, projects eligible for reimbursement under section 1286 of this title.

(b) Conditions for issuance

No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guarantee; and

(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein.

A determination of whether financing is available at reasonable rates shall be made by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

(c) Fees for application investigation and issuance of commitment guarantee

The Administrator is authorized to charge reasonable fees for the investigation of an application for a guarantee and for the issuance of a commitment to make a guarantee.

(d) Commitment for repayment

The Administrator, in determining whether there is a reasonable assurance of repayment, may require a commitment which would apply to such repayment. Such commitment may include, but not be limited to, any funds received by such grantee from the amounts appropriated under section 1286 of this title.

(June 30, 1948, ch. 758, title II, § 213, as added Pub. L. 94–558, Oct. 19, 1976, 90 Stat. 2639; amended Pub. L. 96–483, § 2(e), Oct. 21, 1980, 94 Stat. 2361.)

AMENDMENTS

1980—Subsec. (d). Pub. L. 96–483 struck out ''(1) all or any portion of the funds retained by such grantee under section 1284(b)(3) of this title, and (2)'' after ''limited to''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–483 effective Dec. 27, 1977, see section 2(g) of Pub. L. 96–483, set out as a note under section 1281 of this title.

§ 1293a. Contained spoil disposal facilities

(a) Construction, operation, and maintenance; period; conditions; requirements

The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain, subject to the provisions of subsection (c) of this section, contained spoil disposal facilities of sufficient capacity for a period not to exceed ten years, to meet the requirements of this section. Before establishing each such facility, the Secretary of the Army shall obtain the concurrence of appropriate local governments and shall consider the views and recommendations of the Adminis-

trator of the Environmental Protection Agency and shall comply with requirements of section 1171 of this title, and of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]. Section 401 of this title shall not apply to any facility authorized by this section.

(b) Time for establishment; consideration of area needs; requirements

The Secretary of the Army, acting through the Chief of Engineers, shall establish the contained spoil disposal facilities authorized in subsection (a) of this section at the earliest practicable date, taking into consideration the views and recommendations of the Administrator of the Environmental Protection Agency as to those areas which, in the Administrator's judgment, are most urgently in need of such facilities and pursuant to the requirements of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.].

(c) Written agreement requirement; terms of agreement

Prior to construction of any such facility, the appropriate State or States, interstate agency, municipality, or other appropriate political subdivision of the State shall agree in writing to (1) furnish all lands, easements, and rights-of-way necessary for the construction, operation, and maintenance of the facility; (2) contribute to the United States 25 per centum of the construction costs, such amount to be payable either in cash prior to construction, in installments during construction, or in installments, with interest at a rate to be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due or callable for redemption for fifteen years from date of issue; (3) hold and save the United States free from damages due to construction, operation, and maintenance of the facility; and (4) except as provided in subsection (f) of this section, maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

(d) Waiver of construction costs contribution from non-Federal interests; findings of participation in waste treatment facilities for general geographical area and compliance with water quality standards; waiver of payments in event of written agreement before occurrence of findings

The requirement for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (c) of this section shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivision of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated. In the event such findings occur after the appropriate non-Federal interest or interests have entered into the agreement required by subsection (c) of this section, any payments due after the date of such findings as part of the required local contribution of 25 per centum of the construction costs shall be waived by the Secretary of the Army.

(e) Federal payment of costs for disposal of dredged spoil from project

Notwithstanding any other provision of law, all costs of disposal of dredged spoil from the project for the Great Lakes connecting channels, Michigan, shall be borne by the United States.

(f) Title to lands, easements, and rights-of-way; retention by non-Federal interests; conveyance of facilities; agreement of transferee

The participating non-Federal interest or interests shall retain title to all lands, easements, and rights-of-way furnished by it pursuant to subsection (c) of this section. A spoil disposal facility owned by a non-Federal interest or interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

(g) Federal licenses or permits; charges; remission of charge

Any spoil disposal facilities constructed under the provisions of this section shall be made available to Federal licensees or permittees upon payment of an appropriate charge for such use. Twenty-five per centum of such charge shall be remitted to the participating non-Federal interest or interests except for those excused from contributing to the construction costs under subsections (d) and (e) of this section.

(h) Provisions applicable to Great Lakes and their connecting channels

This section, other than subsection (i), shall be applicable only to the Great Lakes and their connecting channels.

(i) Research, study, and experimentation program relating to dredged spoil extended to navigable waters, etc.; cooperative program; scope of program; utilization of facilities and personnel of Federal agency

The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to extend to all navigable waters, connecting channels, tributary streams, other waters of the United States and waters contiguous to the United States, a comprehensive program of research, study, and experimentation relating to dredged spoil. This program shall be carried out in cooperation with other Federal and State agencies, and shall include, but not be limited to, investigations on the characteristics of dredged spoil, and alternative methods of its disposal. To the extent that such study shall include the effects of such dredge spoil on water

quality, the facilities and personnel of the Environmental Protection Agency shall be utilized.

(j) Period for depositing dredged materials

The Secretary of the Army, acting through the Chief of Engineers, is authorized to continue to deposit dredged materials into a contained spoil disposal facility constructed under this section until the Secretary determines that such facility is no longer needed for such purpose or that such facility is completely full.

(k) Study and monitoring program

(1) Study

The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the materials disposed of in contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are present in such facilities and for the purpose of determining the concentration levels of each of such pollutants in such facilities.

(2) Report

Not later than 1 year after November 17, 1988, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(3) Inspection and monitoring program

The Secretary shall conduct a program to inspect and monitor contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are leaking from such facilities.

(4) Toxic pollutant defined

For purposes of this subsection, the term ''toxic pollutant'' means those toxic pollutants referred to in section 1311(b)(2)(C) and 1311(b)(2)(D) of this title and such other pollutants as the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines are appropriate based on their effects on human health and the environment.

(Pub. L. 91–611, title I, § 123, Dec. 31, 1970, 84 Stat. 1823; Pub. L. 93–251, title I, § 23, Mar. 7, 1974, 88 Stat. 20; Pub. L. 100–676, § 24, Nov. 17, 1988, 102 Stat. 4027.)

REFERENCES IN TEXT

Section 1171 of this title, referred to in subsec. (a), was omitted as superseded.

The National Environmental Policy Act of 1969, referred to in subsecs. (a) and (b), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (b), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to this chapter (§ 1251 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1165a of this title.

Section was not enacted as a part of the Federal Water Pollution Control Act which comprises this chapter.

AMENDMENTS

1988—Subsec. (j). Pub. L. 100–676, § 24(a), added subsec. (j).

Subsec. (k). Pub. L. 100–676, § 24(b), added subsec. (k).

1974—Subsec. (d). Pub. L. 93–251 inserted provision for waiver of payments in event of a written agreement before occurrence of findings.

GREAT LAKES CONFINED DISPOSAL FACILITIES

Pub. L. 104–303, title V, § 513, Oct. 12, 1996, 110 Stat. 3762, provided that:

''(a) ASSESSMENT.—Pursuant to the responsibilities of the Secretary under section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a), the Secretary shall conduct an assessment of the general conditions of confined disposal facilities in the Great Lakes.

''(b) REPORT.—Not later than 3 years after the date of the enactment of this Act [Oct. 12, 1996], the Secretary shall transmit to Congress a report on the results of the assessment conducted under subsection (a), including the following:

''(1) A description of the cumulative effects of confined disposal facilities in the Great Lakes.

''(2) Recommendations for specific remediation actions for each confined disposal facility in the Great Lakes.

''(3) An evaluation of, and recommendations for, confined disposal facility management practices and technologies to conserve capacity at such facilities and to minimize adverse environmental effects at such facilities throughout the Great Lakes system.''

§ 1294. Public information and education on recycling and reuse of wastewater, use of land treatment, and reduction of wastewater volume

The Administrator shall develop and operate within one year of December 27, 1977, a continuing program of public information and education on recycling and reuse of wastewater (including sludge), the use of land treatment, and methods for the reduction of wastewater volume.

(June 30, 1948, ch. 758, title II, § 214, as added Pub. L. 95–217, § 38, Dec. 27, 1977, 91 Stat. 1581.)

§ 1295. Requirements for American materials

Notwithstanding any other provision of law, no grant for which application is made after February 1, 1978, shall be made under this subchapter for any treatment works unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States, substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States will be used in such treatment works. This section shall not apply in any case where the Administrator determines, based upon those factors the Administrator deems relevant, including the available resources of the agency, it to be inconsistent with the public interest (including multilateral government procurement agreements) or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the

case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(June 30, 1948, ch. 758, title II, § 215, as added Pub. L. 95–217, § 39, Dec. 27, 1977, 91 Stat. 1581.)

§ 1296. Determination of priority of projects

Notwithstanding any other provision of this chapter, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that State, except that if the Administrator, after a public hearing, determines that a specific project will not result in compliance with the enforceable requirements of this chapter, such project shall be removed from the State's priority list and such State shall submit a revised priority list. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration-in-flow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows. Not less than 25 per centum of funds allocated to a State in any fiscal year under this subchapter for construction of publicly owned treatment works in such State shall be obligated for those types of projects referred to in clauses (D), (E), (F), and (G) of this section, if such projects are on such State's priority list for that year and are otherwise eligible for funding in that fiscal year. It is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this chapter by any State, municipality, or intermunicipal or interstate agency shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of this chapter.

(June 30, 1948, ch. 758, title II, § 216, as added Pub. L. 95–217, § 40, Dec. 27, 1977, 91 Stat. 1582; amended Pub. L. 97–117, § 18, Dec. 29, 1981, 95 Stat. 1630.)

AMENDMENTS

1981—Pub. L. 97–117 inserted provision that it is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this chapter by any State, municipality, or intermunicipal or interstate agency be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of this chapter.

§ 1297. Guidelines for cost-effectiveness analysis

Any guidelines for cost-effectiveness analysis published by the Administrator under this subchapter shall provide for the identification and selection of cost effective alternatives to comply with the objectives and goals of this chapter and sections 1281(b), 1281(d), 1281(g)(2)(A), and 1311(b)(2)(B) of this title.

(June 30, 1948, ch. 758, title II, § 217, as added Pub. L. 95–217, § 41, Dec. 27, 1977, 91 Stat. 1582.)

§ 1298. Cost effectiveness

(a) Congressional statement of policy

It is the policy of Congress that a project for waste treatment and management undertaken with Federal financial assistance under this chapter by any State, municipality, or intermunicipal or interstate agency shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 1281 of this title, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or which is used for ultimate disposal of residues resulting from such treatment; water efficiency measures and devices; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this chapter.

(b) Determination by Administrator as prerequisite to approval of grant

In accordance with the policy set forth in subsection (a) of this section, before the Administrator approves any grant to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of any treatment works the Administrator shall determine that the facilities plan of which such treatment works are a part constitutes the most economical and cost-effective combination of treatment works over the life of the project to meet the requirements of this chapter, including, but not limited to, consideration of construction costs, operation, maintenance, and replacement costs.

(c) Value engineering review

In furtherance of the policy set forth in subsection (a) of this section, the Administrator shall require value engineering review in connection with any treatment works, prior to approval of any grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of such treatment works, in any case in which the cost of such erection, building, acquisition, alteration, remodeling, improvement, or extension is projected to be in excess of $10,000,000. For purposes of this subsection, the term ''value engineering review'' means a specialized cost control technique

which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

(d) Projects affected

This section applies to projects for waste treatment and management for which no treatment works including a facilities plan for such project have received Federal financial assistance for the preparation of construction plans and specifications under this chapter before December 29, 1981.

(June 30, 1948, ch. 758, title II, § 218, as added Pub. L. 97–117, § 19, Dec. 29, 1981, 95 Stat. 1630.)

§ 1299. State certification of projects

Whenever the Governor of a State which has been delegated sufficient authority to administer the construction grant program under this subchapter in that State certifies to the Administrator that a grant application meets applicable requirements of Federal and State law for assistance under this subchapter, the Administrator shall approve or disapprove such application within 45 days of the date of receipt of such application. If the Administrator does not approve or disapprove such application within 45 days of receipt, the application shall be deemed approved. If the Administrator disapproves such application the Administrator shall state in writing the reasons for such disapproval. Any grant approved or deemed approved under this section shall be subject to amounts provided in appropriation Acts.

(June 30, 1948, ch. 758, title II, § 219, as added Pub. L. 97–117, § 20, Dec. 29, 1981, 95 Stat. 1631.)

§ 1300. Pilot program for alternative water source projects

(a) Policy

Nothing in this section shall be construed to affect the application of section 1251(g) of this title and all of the provisions of this section shall be carried out in accordance with the provisions of section 1251(g) of this title.

(b) In general

The Administrator may establish a pilot program to make grants to State, interstate, and intrastate water resource development agencies (including water management districts and water supply authorities), local government agencies, private utilities, and nonprofit entities for alternative water source projects to meet critical water supply needs.

(c) Eligible entity

The Administrator may make grants under this section to an entity only if the entity has authority under State law to develop or provide water for municipal, industrial, and agricultural uses in an area of the State that is experiencing critical water supply needs.

(d) Selection of projects

(1) Limitation

A project that has received funds under the reclamation and reuse program conducted under the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) shall not be eligible for grant assistance under this section.

(2) Additional consideration

In making grants under this section, the Administrator shall consider whether the project is located within the boundaries of a State or area referred to in section 391 of title 43, and within the geographic scope of the reclamation and reuse program conducted under the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.).

(3) Geographical distribution

Alternative water source projects selected by the Administrator under this section shall reflect a variety of geographical and environmental conditions.

(e) Committee resolution procedure

(1) In general

No appropriation shall be made for any alternative water source project under this section, the total Federal cost of which exceeds $3,000,000, if such project has not been approved by a resolution adopted by the Committee on Transportation and Infrastructure of the House of Representatives or the Committee on Environment and Public Works of the Senate.

(2) Requirements for securing consideration

For purposes of securing consideration of approval under paragraph (1), the Administrator shall provide to a committee referred to in paragraph (1) such information as the committee requests and the non-Federal sponsor shall provide to the committee information on the costs and relative needs for the alternative water source project.

(f) Uses of grants

Amounts from grants received under this section may be used for engineering, design, construction, and final testing of alternative water source projects designed to meet critical water supply needs. Such amounts may not be used for planning, feasibility studies or for operation, maintenance, replacement, repair, or rehabilitation.

(g) Cost sharing

The Federal share of the eligible costs of an alternative water source project carried out using assistance made available under this section shall not exceed 50 percent.

(h) Reports

On or before September 30, 2004, the Administrator shall transmit to Congress a report on the results of the pilot program established under this section, including progress made toward meeting the critical water supply needs of the participants in the pilot program.

(i) Definitions

In this section, the following definitions apply:

(1) Alternative water source project

The term ''alternative water source project'' means a project designed to provide munici-

pal, industrial, and agricultural water supplies in an environmentally sustainable manner by conserving, managing, reclaiming, or reusing water or wastewater or by treating wastewater. Such term does not include water treatment or distribution facilities.

(2) Critical water supply needs

The term ''critical water supply needs'' means existing or reasonably anticipated future water supply needs that cannot be met by existing water supplies, as identified in a comprehensive statewide or regional water supply plan or assessment projected over a planning period of at least 20 years.

(j) Authorization of appropriations

There is authorized to be appropriated to carry out this section a total of $75,000,000 for fiscal years 2002 through 2004. Such sums shall remain available until expended.

(June 30, 1948, ch. 758, title II, § 220, as added Pub. L. 106–457, title VI, § 602, Nov. 7, 2000, 114 Stat. 1975.)

REFERENCES IN TEXT

The Reclamation Projects Authorization and Adjustment Act of 1992, referred to in subsec. (d)(1), (2), is Pub. L. 102–575, Oct. 30, 1992, 106 Stat. 4600, as amended. Provisions relating to the reclamation and reuse program are classified generally to section 390h et seq. of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 371 of Title 43 and Tables.

§ 1301. Sewer overflow control grants

(a) In general

In any fiscal year in which the Administrator has available for obligation at least $1,350,000,000 for the purposes of section 1381 of this title—

(1) the Administrator may make grants to States for the purpose of providing grants to a municipality or municipal entity for planning, design, and construction of treatment works to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows; and

(2) subject to subsection (g) of this section, the Administrator may make a direct grant to a municipality or municipal entity for the purposes described in paragraph (1).

(b) Prioritization

In selecting from among municipalities applying for grants under subsection (a) of this section, a State or the Administrator shall give priority to an applicant that—

(1) is a municipality that is a financially distressed community under subsection (c) of this section;

(2) has implemented or is complying with an implementation schedule for the nine minimum controls specified in the CSO control policy referred to in section 1342(q)(1) of this title and has begun implementing a long-term municipal combined sewer overflow control plan or a separate sanitary sewer overflow control plan;

(3) is requesting a grant for a project that is on a State's intended use plan pursuant to section 1386(c) of this title; or

(4) is an Alaska Native Village.

(c) Financially distressed community

(1) Definition

In subsection (b) of this section, the term ''financially distressed community'' means a community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.

(2) Consideration of impact on water and sewer rates

In determining if a community is a distressed community for the purposes of subsection (b) of this section, the State shall consider, among other factors, the extent to which the rate of growth of a community's tax base has been historically slow such that implementing a plan described in subsection (b)(2) of this section would result in a significant increase in any water or sewer rate charged by the community's publicly owned wastewater treatment facility.

(3) Information to assist States

The Administrator may publish information to assist States in establishing affordability criteria under paragraph (1).

(d) Cost-sharing

The Federal share of the cost of activities carried out using amounts from a grant made under subsection (a) of this section shall be not less than 55 percent of the cost. The non-Federal share of the cost may include, in any amount, public and private funds and in-kind services, and may include, notwithstanding section 1383(h) of this title, financial assistance, including loans, from a State water pollution control revolving fund.

(e) Administrative reporting requirements

If a project receives grant assistance under subsection (a) of this section and loan assistance from a State water pollution control revolving fund and the loan assistance is for 15 percent or more of the cost of the project, the project may be administered in accordance with State water pollution control revolving fund administrative reporting requirements for the purposes of streamlining such requirements.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out this section $750,000,000 for each of fiscal years 2002 and 2003. Such sums shall remain available until expended.

(g) Allocation of funds

(1) Fiscal year 2002

Subject to subsection (h) of this section, the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2002 for making grants to municipalities and municipal entities under subsection (a)(2) of this section, in accordance with the criteria set forth in subsection (b) of this section.

(2) Fiscal year 2003

Subject to subsection (h) of this section, the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2003 as follows:

(A) Not to exceed $250,000,000 for making grants to municipalities and municipal entities under subsection (a)(2) of this section, in accordance with the criteria set forth in subsection (b) of this section.

(B) All remaining amounts for making grants to States under subsection (a)(1) of this section, in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 1375(b)(1) of this title.

(h) Administrative expenses

Of the amounts appropriated to carry out this section for each fiscal year—

(1) the Administrator may retain an amount not to exceed 1 percent for the reasonable and necessary costs of administering this section; and

(2) the Administrator, or a State, may retain an amount not to exceed 4 percent of any grant made to a municipality or municipal entity under subsection (a) of this section, for the reasonable and necessary costs of administering the grant.

(i) Reports

Not later than December 31, 2003, and periodically thereafter, the Administrator shall transmit to Congress a report containing recommended funding levels for grants under this section. The recommended funding levels shall be sufficient to ensure the continued expeditious implementation of municipal combined sewer overflow and sanitary sewer overflow controls nationwide.

(June 30, 1948, ch. 758, title II, § 221, as added Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 112(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A–225.)

INFORMATION ON CSOS AND SSOS

Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 112(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A–227, provided that:

''(1) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act [Dec. 21, 2000], the Administrator of the Environmental Protection Agency shall transmit to Congress a report summarizing—

''(A) the extent of the human health and environmental impacts caused by municipal combined sewer overflows and sanitary sewer overflows, including the location of discharges causing such impacts, the volume of pollutants discharged, and the constituents discharged;

''(B) the resources spent by municipalities to address these impacts; and

''(C) an evaluation of the technologies used by municipalities to address these impacts.

''(2) TECHNOLOGY CLEARINGHOUSE.—After transmitting a report under paragraph (1), the Administrator shall maintain a clearinghouse of cost-effective and efficient technologies for addressing human health and environmental impacts due to municipal combined sewer overflows and sanitary sewer overflows.''

SUBCHAPTER III—STANDARDS AND ENFORCEMENT

§ 1311. Effluent limitations

(a) Illegality of pollutant discharges except in compliance with law

Except as in compliance with this section and sections 1312, 1316, 1317, 1328, 1342, and 1344 of this title, the discharge of any pollutant by any person shall be unlawful.

(b) Timetable for achievement of objectives

In order to carry out the objective of this chapter there shall be achieved—

(1)(A) not later than July 1, 1977, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 1314(b) of this title, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 1317 of this title; and

(B) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 1283 of this title prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 1314(d)(1) of this title; or,

(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 1370 of this title) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this chapter.

(2)(A) for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which (i) shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, which such effluent limitations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to section 1325 of this title), that such elimination is technologically and economically achievable for a category or class of point sources as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, or (ii) in the case of the introduction of a pollutant into a publicly owned treatment works which meets the requirements of subparagraph